

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

+ + + + +

IN THE MATTER OF :
DIANE COWAN et al., :
Plaintiffs, :
and : Civil Action
UNITED STATES OF AMERICA, : No. 2:65-
Plaintiff-Intervenor, : cv-00031-DMB
v. :
BOLIVAR COUNTY BOARD OF :
EDUCATION et al., :
Defendants. :
:

Friday,
April 10, 2015
Washington, D.C.

DEPOSITION OF:

AMY STUART WELLS, Ph.D.

called for examination by Counsel for the Defendants, pursuant to Notice of Deposition, in the United States Department of Justice, located at 601 D Street, N.W., when were present on behalf of the respective parties:

<p>APPEARANCES: On Behalf of the Plaintiffs, Diane Cowan et al.: SHAKTI BELWAY, ESQ. PO Box 19974 New Orleans, LA 70179 Tel: (415) 516-4211 Email: Shakti.belway@gmail.com</p> <p>On Behalf of the Plaintiff-Intervenor, the United States of America: AZIZ AHMAD, ESQ. JOSEPH J. WARDENSKI, ESQ. of: U.S. Department of Justice 950 Pennsylvania Avenue, NW Patrick Henry Building Suite 4300 Washington, D.C. 20530 Tel: (202) 305-3355 (Ahmad) (202) 514-4092 (Wardenski) Email: aziz.ahmad@usdoj.gov joseph.wardenSKI@usdoj.gov</p> <p>On Behalf of the Defendants, the Bolivar County Board of Education et al.: JOHN S. HOOKS, ESQ. of: Adams and Reese LLP 1018 Highland Colony Parkway Suite 800 Ridgeland, MS 39157 Tel: (601) 292-0708 Email: john.hooks@arlaw.com</p> <p>JAMIE F. JACKS, ESQ. of: Jacks Adams & Norquist P.A. 150 N Sharpe Avenue Cleveland, MS 38732 Tel: (662) 843-6171 Email: jjacks@jacksadamsnorquist.com</p>	<p>Page 2</p> <p>1 P-R-O-C-E-D-I-N-G-S 2 (10:01 a.m.) 3 WHEREUPON, 4 AMY STUART WELLS 5 was called as a witness by Counsel for the 6 Defendants and, having been first duly sworn, 7 assumed the witness stand, was examined and 8 testified as follows: 9 MR. HOOKS: Good morning, Dr. Wells. 10 THE WITNESS: Good morning. 11 BY MR. HOOKS: 12 Q My name is John Hooks and I work for 13 the law firm of Adams and Reese LLP, and I'm here 14 today to ask you a few questions about your 15 expert report you've prepared. Do you have it in 16 front of you at this time? 17 A Yes, I do. 18 Q Is this a report dated March 20th, 19 2015? 20 A Yes, it is. 21 Q With regard to your report, can you 22 begin by explaining to me the details of the</p>
<p>ALSO PRESENT:</p> <p>CEALA BREEN-PORTNOY, law clerk JAIME DOLE, paralegal</p>	<p>Page 3</p> <p>1 assignment, in particular what you were asked to 2 do? 3 A I was asked to write an expert report 4 responding to the Department of Justice plan and 5 the two plans put forth by the District. 6 Q I see. Were there any other details 7 of your assignment beyond that? 8 A Not that I can think of. 9 Q In particular, were you asked to 10 consider a proposed consolidation of the 11 District's two high schools? 12 A Well, as I said, I was asked to 13 respond to the Department of Justice plan, which 14 includes consolidation. 15 Q Are all the materials you reviewed -- 16 MS. FOX: I think that Amy Wells needs 17 to be closer to the speakerphone. 18 MR. HOOKS: Okay. 19 MS. FOX: Because I can't hear her 20 answers. 21 MR. HOOKS: Are all the materials that 22 --</p>

2 (Pages 2 to 5)

1 MR. WARDENSKI: We're going to have to
 2 ask that Dr. Rossell go on mute for the rest of
 3 the deposition if that's okay. I assume that you
 4 can hear us if you're on mute.

5 MR. HOOKS: Are all the materials
 6 reviewed listed in your report, ma'am?

7 THE WITNESS: I'm sorry?

8 BY MR. HOOKS:

9 Q Are all the materials that you
 10 reviewed in compiling your report listed in your
 11 report so far as you know?

12 A That I reviewed in terms of what was
 13 cited in the report.

14 Q I see. So as you sit here today, you
 15 can't think of anything you looked at that you
 16 didn't include in your report as a reference?

17 A As a reference, no.

18 Q I see. And who have you talked to in
 19 compiling your report?

20 A I've talked to the attorneys at the
 21 Department of Justice. I've talked to my
 22 graduate student Lauren Fox. I've also been to

1 you were asked to provide it, could you?

2 A Yes.

3 Q Is there any reason that you waited
 4 until after your report was completed to visit
 5 Cleveland and speak with people?

6 A Not a particular reason.

7 Q Is there a general reason?

8 A Not a general reason.

9 Q So there's no reason at all?

10 A The reason would be more related to
 11 when I was able to go to Cleveland.

12 Q I see. When were you first approached
 13 by the Department of Justice about creating a
 14 report for them?

15 A End of October.

16 Q October of 2014?

17 A Yes.

18 Q Have you been an expert witness in
 19 prior cases before this case?

20 A No, I have not.

21 Q Have you served as a consultant to the
 22 Department of Justice regarding desegregation

1 Cleveland, Mississippi, and talked to members of
 2 that community. That was actually afterward.

3 Q Okay, when did you visit Cleveland?

4 A I visited Cleveland on Saturday.

5 Q Okay, and you said that that would
 6 have been after your March 20th, 2015, report?

7 A Yes, it was.

8 Q Okay. And the details of your visit
 9 are not in your report, are they?

10 A No, they're not.

11 Q And you say you spoke with members of
 12 the community while you were in Cleveland.

13 A Yes.

14 Q With whom did you speak?

15 A We spoke with Margaret Block.

16 Q Anyone else?

17 A We spoke with a group of parents and
 18 former administrators at the church.

19 Q Do you know who they were?

20 A I don't have all their names in front
 21 of me.

22 Q Do you have a list of their names? If

1 plans?

2 A No, I have not.

3 Q Have you served as a consultant or
 4 assisted school districts regarding desegregation
 5 plans?

6 A I'm not a formal consultant but I have
 7 interviewed many people and written about
 8 desegregation plans in many districts.

9 Q And so it's fair to say you have not
 10 provided any prior depositions in a legal
 11 proceeding with regard to desegregation plans?

12 A That's correct.

13 Q And you have not, then, given prior
 14 testimony in a legal proceeding with respect to a
 15 desegregation plan?

16 A That is correct.

17 Q Do you have any history of developing
 18 or implementing a desegregation plan?

19 A Could you please clarify that
 20 question?

21 Q Okay. Have you assisted any court or
 22 school district in developing a desegregation

Page 10

1 plan?

2 A Yes.

3 Q Okay, which district would that be?

4 A As I told you, I have interviewed many
5 officials and administrators in districts
6 implementing desegregation plans and have written
7 research documents, reports, that respond to the
8 issues they're facing.

9 Q I understand. But with regard to the
10 construction of a desegregation plan from
11 scratch, have you been involved in assisting a
12 court or a school district in developing a plan?

13 A I think it would depend on what you
14 mean by developing.

15 Q Okay, well, let's define that. By
16 developing I mean creating a plan with which the
17 school district would then comply in order to
18 achieve unitary status. Have you assisted in
19 developing a plan of that kind?

20 A I have written about policies that
21 relate to implementing desegregation plans and
22 can, and hopefully did, inform school

Page 12

1 Q Sure. In terms of assisting a court
2 in implementing or evaluating compliance of a
3 school district, have you previously looked into
4 any data or conducted any research and reported
5 back to a federal court judge regarding whether
6 the district was in compliance with a
7 desegregation plan?

8 A Not directly.

9 Q Okay. Now, with regard to your report
10 that's before you today, I want to ask you a few
11 things with regard to what you might not be
12 offering an opinion on, okay?

13 A As far as I can determine from reading
14 your report, you will not be offering an opinion
15 with respect to the capacity of school district
16 facilities, correct?

17 A As far as I -- It's hard to say what
18 I'll do in the future, right?

19 Q Okay. But with respect to the report
20 you've written, your report does not contain an
21 analysis regarding the capacity of school
22 district facilities?

Page 11

Page 13

1 administrators in the process.

2 Q I see.

3 A I didn't necessarily connect it to
4 requesting unitary status.

5 Q I see. But those would have been
6 articles that might have assisted them indirectly
7 in carrying out their obligations under the
8 desegregation plans that a court or they, the
9 school districts themselves, had already
10 implemented?

11 A I would hope so.

12 Q Okay. And just so I'm clear, you have
13 never advised a court regarding the
14 implementation or compliance with a desegregation
15 plan?

16 A I have interviewed judges involved in
17 desegregation plans, federal judges, and
18 similarly written about my analysis of those
19 cases, so hopefully they've had some impact.

20 Q But that impact would be indirect?

21 A Could you explain what you mean by
22 indirect?

1 A No, it does not.

2 Q And as you sit here today, you have no
3 plan and you have not been asked by the Justice
4 Department to opine about the capacity of the
5 school district's facilities, is that right?

6 A Not directly, no.

7 Q Have you been asked to opine about the
8 school district's facilities indirectly?

9 A Please explain your question.

10 Q Well, you said that you hadn't been
11 asked to opine about the capacity of school
12 district facilities directly. I was wondering
13 what actually you meant by indirectly.

14 A I guess I actually wanted to know what
15 you meant by opine on school district facilities.

16 Q Well, will you be offering an opinion
17 regarding the capacity of school district
18 facilities of the Cleveland School District?

19 A Capacity to do what?

20 Q The capacity of students to actually
21 have school in any of the school district
22 facilities.

4 (Pages 10 to 13)

1 A To actually have school in. Could you
2 explain?

3 Q I'm at a loss to how I could explain
4 any more than that. Have you conducted any
5 analysis of how many pupils can go in each
6 classroom and the --

7 A No, I have not. I have not.

8 Q -- capacity of the school district
9 facilities and so on? Okay.

10 A I have not conducted any review of how
11 many students can go in each classroom.

12 Q Okay. With regard to the relative
13 quality of the facilities, have you conducted any
14 research or made any analysis or have any
15 findings regarding the relative quality of the
16 facilities?

17 A Please explain what you mean by
18 quality.

19 Q Okay. With regard to the facilities,
20 will you be offering an opinion that Facility A,
21 for example, is inferior or superior to Facility

22 B?

1 Q Okay, have you been asked to render
2 any opinion as to the relative quality of the
3 facilities?

4 A I have not at this time been asked to
5 render that opinion.

6 Q Have you been asked to render any
7 opinions regarding the distribution of materials
8 across District schools? And by materials I mean
9 school supplies, textbooks, et cetera.

10 A Not at this time.

11 Q Have you been asked to evaluate the
12 quality of the teachers or the administrative
13 staff across schools in the District?

14 A I'd like you to clarify that question.

15 Q Have you been asked to render any
16 opinions regarding the quality of teachers or
17 administrative staff across the District?

18 A Been asked to render my opinion in
19 what way?

20 Q I can't answer the question for you,
21 ma'am. I mean --

22 A I'm not asking you to. I'm asking you

1 A In what capacity are you talking
2 about?

3 Q In your capacity as an expert witness.

4 A No, I'm talking about inferior or

5 superior.

6 Q I'm talking about the quality, the
7 relative quality of the facility itself in terms
8 of the construction of the facility, the
9 soundness of the walls, the roof, the floor, et
10 cetera.

11 A I will not be offering an opinion on
12 the soundness of the walls or the roof or the
13 floor.

14 Q Have you been asked to determine
15 whether any of the buildings in the District are
16 superior to any other buildings in the District?

17 A And by superior do you mean the
18 soundness of the walls and the roof?

19 Q The architectural quality and so
20 forth, yes.

21 A Okay, architectural quality is
22 different than the soundness of the roof.

1 to clarify your question.

2 Q Okay. Have you been asked to examine
3 the quality of teachers from one school to the
4 next in the school district?

5 A I have looked at the credentials and
6 the information on teacher preparation that was
7 available.

8 Q And was that information listed in
9 your report as something you reviewed?

10 A It's listed in the District documents
11 that were.

12 Q Could you explain to me what you
13 reviewed, ma'am?

14 A Everything that's in the list of
15 references.

16 Q No, I mean what documents reviewed
17 that would relate to an assessment of the quality
18 of the teaching staff.

19 A I'd have to look at the specific title
20 of the document.

21 Q Okay. Could you refer to your report
22 now and look at that?

1 A I would have to go back and look at
 2 the specific documents. It was in exhibits from
 3 the District from 2013 or 2014, compliance
 4 reports.

5 Q In the compliance reports?

6 A I believe so. I would need to look at
 7 them to answer your question.

8 Q Okay. With regard to those materials,
 9 did you form any opinions with regard to the
 10 quality of the teachers from one school to
 11 another in the District?

12 A Just what could be observed through
 13 that report.

14 Q And what were your observations?

15 A My observations were that there were
 16 certain classes not being offered in the schools
 17 that teachers were qualified to teach.

18 Q I see. Well, my question, though, is
 19 did you form any opinion or will you be offering
 20 an opinion in this case regarding the relative
 21 quality of the teaching staff?

22 A I don't know.

1 Q Okay. Have you looked at any data to
 2 determine the racial composition of
 3 extracurricular activities at the Cleveland
 4 School District? By racial composition I mean
 5 student participation at the Cleveland School
 6 District.

7 A You specifically want racial
 8 composition?

9 Q That's my question, yes.

10 A In any extracurricular activity?

11 Q Yes.

12 A Do you want to know if I have specific
 13 evidence of it?

14 Q I want to know if you're going to be
 15 offering any opinions on that topic.

16 A When?

17 Q At the hearing of this matter.

18 A Oh. That I don't know.

19 Q Okay. Have you included any of those
 20 opinions in your report?

21 A No.

22 Q Okay. With regard to a transportation

1 Q Okay. You haven't formed an opinion
 2 at this point in time regarding the relative
 3 quality of the teaching staff at any particular
 4 school, have you?

5 A I didn't say that.

6 Q Okay, well, have you?

7 A Not a full opinion.

8 Q Okay, have you presented an opinion in
 9 your report regarding the quality of the teaching
 10 staff from one school to the next?

11 A No.

12 Q With regard to extracurricular
 13 activities, have you provided any or have you
 14 done any research or will you be providing any
 15 opinions regarding extracurricular activities?

16 A I need you to clarify that question.

17 Q Okay, have you done any study
 18 regarding the participation of students in
 19 extracurricular activities at the Cleveland
 20 School District?

21 A Could you be more specific? I'm not
 22 sure what you're asking.

1 analysis, pupil transportation, have you included
 2 any opinions regarding that in your report?

3 A No.

4 Q Do you plan on offering any opinions
 5 at the hearing of this matter with respect to
 6 transportation of pupils?

7 A I do not know.

8 Q Now, with regard to school district
 9 finances, have you done any analysis with regard
 10 to the school district's finances?

11 A Not directly.

12 Q All right. Will you be offering any
 13 opinion regarding the school district's finances?

14 A I do not know.

15 Q You have not included any opinion
 16 regarding the financial position of the school
 17 district in your report, is that correct?

18 A Could you clarify your question?

19 Q Okay. With regard to school district
 20 finances, I'm talking about, Doctor, things like
 21 the ability of the school district to construct a
 22 new school, a new facility of some kind or the

<p style="text-align: right;">Page 22</p> <p>1 status of any ability of the school district to 2 move forward with a bond issue, et cetera. Have 3 you done any analysis on those issues?</p> <p>4 A Not directly. I do mention cost- 5 benefit analysis related to school size.</p> <p>6 Q Okay. You're talking about school 7 size, the policy that may provide guidance with 8 respect to the size of the district's high 9 school, is that right?</p> <p>10 A As it could also relate to school 11 finances, yes.</p> <p>12 Q I see. So indirectly that issue may 13 impact school finances.</p> <p>14 A Yes.</p> <p>15 Q Is that what you're saying? Okay. 16 But you don't have an opinion as to whether the 17 school has the financial wherewithal, for 18 example, to construct a new facility of some 19 kind, do you?</p> <p>20 A Could you repeat that question?</p> <p>21 Q Sure. You haven't done any analysis 22 of whether the school district has the financial</p>	<p style="text-align: right;">Page 24</p> <p>1 including demographic shifts, whether historic or 2 future?</p> <p>3 A I do not know.</p> <p>4 Q Have you formed any opinions at this 5 point in time regarding the demographics of the 6 community?</p> <p>7 A Formed any opinions. Would you 8 explain what you mean by opinions?</p> <p>9 Q Okay. If one were to look at -- I 10 understand you've looked at some census data and 11 census information. I'm not specifically talking 12 about or quizzing you about what you do or don't 13 know as to what is going on in the District right 14 now demographically or in the city or the 15 District at large.</p> <p>16 What I'm interested in knowing is if 17 you will be offering any opinion regarding 18 historical demographic data or shifts that might 19 or might not have occurred in the school 20 district.</p> <p>21 A The word opinion is kind of -- There 22 are demographic shifts that have occurred, so.</p>
<p style="text-align: right;">Page 23</p> <p>1 wherewithal or means to construct a new facility 2 of some kind?</p> <p>3 A What do you mean by analysis?</p> <p>4 Q Well, have you reviewed any data or 5 formed any opinions regarding the school 6 district's financial ability to construct a new 7 facility?</p> <p>8 MR. AHMAD: Can we --</p> <p>9 MR. HOOKS: Sure.</p> <p>10 (Off the record comment)</p> <p>11 THE WITNESS: I have not. I've not 12 done a formal analysis on the District's capacity 13 to build a new building.</p> <p>14 BY MR. HOOKS:</p> <p>15 Q All right. And have you or will you 16 be offering any opinions about any of the motives 17 of school board members? Do you know anything 18 about that or will you be offering any opinions 19 on that?</p> <p>20 A I do not know.</p> <p>21 Q And will you be offering any opinions 22 about the demographics of the community,</p>	<p style="text-align: right;">Page 25</p> <p>1 Q Okay, and have you talked about those 2 in your report?</p> <p>3 A In terms of the District, the 4 community?</p> <p>5 Q In terms of the school district.</p> <p>6 A We mentioned them.</p> <p>7 Q I see. And do you recall in what 8 context you mentioned that?</p> <p>9 A I believe it's related to larger 10 demographic shifts in the country. Do you have a 11 specific place in the report you want to ask me?</p> <p>12 Q Actually I was asking you if you 13 recall specifically a place in the report because 14 you referred to having mentioned a demographic 15 shift in your report.</p> <p>16 A Well, there's a larger demographic 17 shift in the country of which Mississippi is a 18 part.</p> <p>19 Q I see. Okay. But in terms of looking 20 at census data or demographic data of Cleveland, 21 Mississippi, or the Cleveland, Mississippi, 22 School District, you've not looked at historical</p>

1 data and you're not forming any opinions about
 2 the data, is that correct?
 3 A That's not correct.
 4 Q Okay, what opinions are you forming or
 5 offering?
 6 A About? Could you clarify what opinion
 7 you want?
 8 Q Well, my understanding is, and correct
 9 me if I'm wrong, but you've been hired to be an
 10 expert witness in this case, correct?
 11 A Correct.
 12 Q And my understanding of what an expert
 13 does is offer an opinion to the Court about
 14 various subjects, correct? Is that your
 15 understanding of what you're supposed to do here
 16 as part of this process?
 17 A I offer an analysis.
 18 Q Okay, an analysis, fair enough. I'm
 19 just trying to narrow down what your analysis
 20 included and what it didn't and I'm not trying to
 21 trick you in any way or box you out.
 22 I'm just trying to understand what

1 Q Okay. What did you review and what
 2 opinions or what analysis did you conduct and
 3 what opinions might you offer?
 4 A That's a lot of questions. Could you
 5 break that down?
 6 Q Sure. What did you look at?
 7 A Several different documents including
 8 in Christine Rossell's report she has a document
 9 looking at the trends of the District, a table,
 10 over time.
 11 Q I see. Do you recall looking at any
 12 other demographic data with regard to student
 13 enrollment at the Cleveland School District?
 14 A Probably other tables in the District
 15 documents.
 16 Q I see.
 17 A This is where she got the data I
 18 believe.
 19 Q I see. And did you conduct any kind
 20 of analysis of Dr. Rossell's table that you
 21 looked at or any of the other tables?
 22 A It's just a descriptive table.

1 your role in this process is because, frankly, I
 2 don't quite understand what you were retained to
 3 do.
 4 So in terms of looking at your report,
 5 I didn't notice that you had conducted an in-
 6 depth analysis of any of the demographic shifts,
 7 whether historic or future, that might have
 8 occurred in the Cleveland School District. If
 9 I'm wrong about that, can you just correct me and
 10 point to your report where you've talked about
 11 that?
 12 A Could you explain what you mean by
 13 thorough analysis?
 14 Q Well, have you conducted any analysis
 15 of the demographic shifts in the Cleveland School
 16 District, including historic or future shifts?
 17 A And when you say analysis, would that
 18 include looking at trends?
 19 Q Yes.
 20 A In the District?
 21 Q Yes.
 22 A I have.

1 Q I see.
 2 A It wasn't anything.
 3 Q All right. So you didn't conduct any
 4 independent analysis of your own data or data you
 5 obtained elsewhere regarding --
 6 A Just whatever was in the District
 7 data.
 8 Q Okay, so you didn't conduct any
 9 analysis of any other data other than what was
 10 provided to you in the District data?
 11 A We also downloaded some data from the
 12 State Department and from the Department of
 13 Education.
 14 Q All right. What did you download from
 15 the State Department of Education?
 16 A Enrollment data.
 17 Q I see, and would that have been
 18 current enrollment data at the school district?
 19 A And some historical.
 20 Q All right. Do you know if you made
 21 reference to that in your report as to what you
 22 reviewed?

1 A I'd have to look.
 2 Q Okay. Well, perhaps in a break you
 3 could, we'll make a note of it and you could take
 4 a look and tell me what you recall reviewing.
 5 A Okay.
 6 Q Did your report, Doctor, include any
 7 analysis of particular school attendant zones and
 8 whether there had been demographic shifts within
 9 those zones historically?
 10 A Could you repeat the question?
 11 Q All right. Formerly in the District
 12 there were attendant zones for the high schools.
 13 Did you look at the attendant zones in the
 14 District historically to see whether demographic
 15 shifts had occurred at any point in time?
 16 A We did look at the maps of the
 17 attendant zones that had demographic data.
 18 Q Okay. And those would have been a
 19 current snapshot, a pupil locator map of sorts?
 20 A Yes.
 21 Q I see. But my understanding is that
 22 you did not go back in time and look at any sort

1 the District?
 2 A What do you mean by analysis?
 3 MR. HOOKS: Can we take a short break
 4 and maybe I could talk to you --
 5 MR. AHMAD: Sure.
 6 MR. HOOKS: -- outside, the two of
 7 you?
 8 MR. AHMAD: Yes.
 9 MR. HOOKS: Thank you.
 10 (Whereupon, the above-entitled matter
 11 went off the record at 10:29 a.m. and resumed at
 12 10:46 a.m.)
 13 MR. HOOKS: Dr. Wells, before the
 14 break we were talking about the issue of zoning
 15 and zones in the school district and I was asking
 16 you whether you would be offering any opinions in
 17 this case regarding the issue of the attendant
 18 zones or whether they should be moved or there
 19 should be rezoning in the District.
 20 THE WITNESS: It would depend on
 21 whether I'm asked about that.
 22 BY MR. HOOKS:

1 of historic shifts that would have occurred
 2 within those attendant zones, is that right?
 3 A Well, by looking at the demographic
 4 data of the high schools when they were enrolling
 5 students based on the attendant zones, you can
 6 see shifts.
 7 Q I see. And did you talk about those
 8 shifts in your report?
 9 A Over time?
 10 Q In your report have you referred to
 11 the demographic shifts within attendant zones?
 12 A No.
 13 Q Okay. Does your report contain any
 14 opinions regarding rezoning of any kind in the
 15 school district?
 16 A Can you clarify your question?
 17 Q Okay. Did you at any time conduct an
 18 analysis with respect to attendant zone lines in
 19 the District?
 20 A Could you repeat that?
 21 Q Did you at any time conduct an
 22 analysis with regard to attendant zone lines in

1 Q Okay. With regard to your report that
 2 you've provided thus far, you've not offered any
 3 opinions regarding rezoning or the desirability
 4 thereof, et cetera, correct?
 5 A No. Could you clarify if you're
 6 talking about elementary or secondary attendant
 7 zones?
 8 Q Well, let's talk about secondary
 9 attendant zones then. Have you offered any
 10 opinions regarding whether zone lines should be
 11 established or reestablished with respect to
 12 secondary schools?
 13 A I have offered the opinion that the
 14 schools should be consolidated.
 15 Q Fair enough. I've got you, but let me
 16 ask it this way then. Assume the Court is not
 17 inclined to order consolidation. Are you
 18 offering any sort of back-up plan to the Court?
 19 A Not at this time.
 20 Q Okay. Now, if we'll turn to your
 21 report, Page 28, you have offered four components
 22 here which you say would need to be included in

<p style="text-align: right;">Page 34</p> <p>1 an effort to consolidate the middle and high 2 schools in Cleveland. 3 And if you'll look at Number 2 with 4 regard to its various -- Well, with respect to 5 Number 2 you say, "A new building, a new set of 6 science labs, a new athletic facility, the 7 strongest athletes from both schools, et cetera, 8 should serve to inspire, excite and motivate 9 students and parents throughout the community to 10 want to be part of the new forward-looking middle 11 and high schools." 12 Just so I'm clear, are you assuming, 13 are you advocating here that there would be a new 14 facility or new facilities constructed in the 15 District? 16 A Am I assuming that it would be? 17 Q Well, what are you advocating? A new 18 building? 19 A In the best possible world, yes. If 20 they could, yes. If that is possible, yes. 21 Q And do you offer an opinion as to 22 whether with regard to the school district, the</p>	<p style="text-align: right;">Page 36</p> <p>1 Q I see. And have you formed any 2 opinions as to where those facilities would best 3 be located in the District? 4 A Not exactly. 5 Q I see. Do you have any opinions, 6 assuming for whatever reason the school district 7 either was not inclined or it was without 8 financial resources to do so, where a 9 consolidation should occur or if it should occur 10 if a new building cannot be constructed for the 11 high school? 12 A I believe consolidation should occur 13 and that consolidated secondary schools should be 14 put in the best possible facilities. 15 Q I see. So you've not narrowed it down 16 to a particular facility that you advocate as 17 part of your report? 18 A I believe the middle schools and the 19 high school should be consolidated and put in the 20 best possible facility. 21 Q Okay. But let me rephrase that then 22 because I probably wasn't clear enough. You're</p>
<p style="text-align: right;">Page 35</p> <p>1 school district's finances, et cetera, whether 2 that's possible? 3 A Do I offer an opinion written in the 4 report? 5 Q Yes, ma'am. 6 A I do not. 7 Q You do not? Okay. Do you have an 8 opinion not in the report about that? 9 A I have an opinion that if I were a 10 school board member or administrator in the 11 school district and I had the ability to build a 12 new building I would do so. 13 Q I see. And you talked about what 14 might be possible in the best of circumstances. 15 With regard to the construction of a new school 16 or schools, would you advocate the construction 17 of a new high school and a new middle school? 18 A I would. 19 Q Okay. And these would be completely 20 new facilities from the ground up, right, not 21 retrofitting existing facilities? 22 A If possible.</p>	<p style="text-align: right;">Page 37</p> <p>1 not advocating that, beyond what you describe as 2 the best possible facility, you're not advocating 3 the high school be put at either the existing 4 East Side or the existing Cleveland school. 5 You're just saying the school board should put it 6 in the better of the two locations, or perhaps 7 there's another facility, but you're not choosing 8 a facility as we sit here today? 9 A I believe consolidated high 10 school/middle school should be put in the best 11 possible facility. 12 Q Okay, can you define best possible 13 facility for me? 14 A The facilities that would facilitate 15 the best learning for all students. 16 Q All right. Do you have an opinion on 17 which facility that would be? 18 A I have an opinion that the school 19 district should build or retrofit the best 20 possible facility. 21 Q Okay. In terms of retrofitting, do 22 you have an opinion on which facility that should</p>

<p>1 be?</p> <p>2 A I believe the most important goal is 3 to consolidate the middle and the high school to 4 create the best educational opportunities for the 5 students and that the school district should 6 create the best possible facility in which to do 7 that.</p> <p>8 Q Okay, so the decision should rest with 9 the school board as to where a consolidated 10 middle or high school should be located?</p> <p>11 A I think that there should be community 12 input into that decision and there should be 13 educational expertise in terms of best possible 14 facility for Cleveland.</p> <p>15 Q But ultimately that's a local decision 16 for the school board to decide based on that 17 input?</p> <p>18 A With input.</p> <p>19 Q I see. With input from those sources 20 you just described?</p> <p>21 A Yes.</p> <p>22 Q Okay. But you yourself would not be</p>	<p>1 inside of?</p> <p>2 A Margaret Green.</p> <p>3 Q Did you go in any other facility other 4 than Margaret Green?</p> <p>5 A Not inside, no.</p> <p>6 Q Okay, did you walk around the exterior 7 of any of the other facilities?</p> <p>8 A Yes, I did.</p> <p>9 Q Okay, what did you walk around and 10 look at?</p> <p>11 A East Side High School, Cleveland High 12 School and Margaret Green.</p> <p>13 Q All right. And with respect to East 14 Side High School, you did not actually go inside 15 the building?</p> <p>16 A Not inside the building.</p> <p>17 Q And you did not go inside Cleveland 18 High School building?</p> <p>19 A No.</p> <p>20 Q From your walking around the District 21 facilities or at least these three facilities, 22 let's take the high schools, did you form any</p>
<p>Page 39</p> <p>1 in a position to advocate one facility over 2 another at this point in time, is that right?</p> <p>3 A Could you be more specific?</p> <p>4 Q Sure. Would you advocate that a 5 consolidated high school -- If a new facility 6 which is your preference is not possible, would 7 you advocate the consolidated high school be 8 placed at the existing Cleveland High School or 9 would you advocate it at East Side or do you not 10 have a preference?</p> <p>11 A I believe a more thorough analysis 12 would need to be conducted.</p> <p>13 Q I see. Fair enough. Now, with 14 respect to the facilities, when you visited the 15 District last Saturday, did you tour any of the 16 District facilities?</p> <p>17 A Could you clarify what you mean by 18 tour?</p> <p>19 Q Sure. Did you go inside any school 20 facilities?</p> <p>21 A Yes, I did.</p> <p>22 Q Which school buildings did you go</p>	<p>Page 41</p> <p>1 opinions regarding the quality or condition of 2 those facilities from walking around looking at 3 the outside?</p> <p>4 A Yes.</p> <p>5 Q What did you form?</p> <p>6 A They need a new high school.</p> <p>7 Q And that's a new high school building?</p> <p>8 A Ideally yes.</p> <p>9 Q Now, you say ideally and I think 10 earlier, and I don't want to put words in your 11 mouth, you said something about the best possible 12 world or best possible circumstance. But in your 13 opinion, is a consolidated high school a 14 requirement under the United States Constitution 15 or do you have an opinion on that?</p> <p>16 A Could you clarify that question? I'm 17 sorry.</p> <p>18 Q Sure. A moment --</p> <p>19 MR. AHMAD: I'm sorry. Are you asking 20 her for a legal opinion?</p> <p>21 MR. HOOKS: Yes, and if she's not 22 going to give one, that's fine. She can just</p>

Page 42

1 tell me she doesn't have one.

2 MR. AHMAD: We haven't retained her as
3 a legal expert. You know that.

4 MR. HOOKS: Okay, fair enough. That's
5 fair enough. Okay. So you will not be offering
6 an opinion as to whether the Constitution or
7 federal case law requires that the U.S. District
8 Court Judge construct a new consolidated
9 facility, correct?

10 THE WITNESS: I can tell you that
11 after Rodriguez that's not likely.

12 MR. HOOKS: Okay. So if she --

13 MR. AHMAD: I mean --

14 MR. HOOKS: If she's not offering an
15 opinion, that's fine but --

16 MR. AHMAD: I mean, you know, we will
17 be offering legal conclusions and opinions to the
18 Court, and the Judge will ultimately decide what
19 is constitutional or not constitutional.

20 MR. HOOKS: I understand.

21 MR. AHMAD: Our expert isn't
22 testifying about, you know, our legal analysis.

Page 44

1 people, do you mean schoolchildren also? Was
2 school in attendance?

3 A School was not in attendance.
4 Q I see.

5 A There were children.

6 Q There were children present?

7 A Yes.

8 Q So you were there for some kind of
9 meeting, like a town hall meeting or --

10 A There was a convening.

11 Q A convened meeting of some kind?

12 A Yes.

13 Q I see. And with regard to the
14 organizer of the meeting, do you know who
15 organized the meeting?

16 A I do not.

17 Q And were any representatives from the
18 United States Department of Justice present?

19 A Yes.

20 Q Who were they?

21 A Aziz was there.

22 Q Okay. Was anybody else present?

Page 43

1 MR. HOOKS: I see. So just so I'm
2 clear, Dr. Wells will not be offering testimony
3 as to whether desegregation law requires the
4 construction of a new high school, consolidated
5 high school?

6 MR. AHMAD: No.

7 MR. HOOKS: Okay, fair enough. Did
8 you make any --

9 THE WITNESS: Could you repeat that?

10 MR. AHMAD: It's okay. We can move
11 past that.

12 BY MR. HOOKS:

13 Q Okay. With regard to your tour of
14 Margaret Green you made, can you describe for me
15 who you were with and what the circumstance was
16 of your visiting the facility?

17 A Could you clarify who I was with?

18 Q No, ma'am, I can't. If you can't
19 answer who you were there with, I don't know how
20 to further clarify that.

21 A We were there with hundreds of people.

22 Q I see. So when you say hundreds of

Page 45

1 A From?
2 Q The United States Department of
3 Justice.

4 A Not that I know of.

5 Q Was anybody there representing the
6 plaintiffs in the lawsuit?

7 A Not that I know of.

8 Q Okay. With regard to your visit of
9 Margaret Green, what parts of the facility did
10 you tour, did you see?

11 A I saw a entranceway to the auditorium
12 or gymnasium. I saw the gymnasium. I saw a
13 bathroom off the gymnasium.

14 Q Okay, did you go inside every
15 classroom of Margaret Green?

16 A I did not.

17 Q How many classrooms did you go inside
18 of?

19 A I did not go in any classrooms.

20 Q Did you go in to the cafeteria?

21 A I did not.

22 Q Did you look at any of the playing or

<p>1 athletic fields?</p> <p>2 A I did see athletic fields, yes.</p> <p>3 Q Did you form any opinions about the</p> <p>4 athletic fields, the quality or condition</p> <p>5 thereof?</p> <p>6 A Not an expert opinion.</p> <p>7 Q I see. Did you form any opinions</p> <p>8 regarding playground equipment or did you examine</p> <p>9 playground equipment?</p> <p>10 A At the high school?</p> <p>11 Q No, at Margaret Green.</p> <p>12 A I did not. Is there a playground in</p> <p>13 Margaret --</p> <p>14 Q Do you recall seeing one?</p> <p>15 A I'm not sure if you mean, what you</p> <p>16 mean exactly by a playground.</p> <p>17 Q Well, did you --</p> <p>18 A There were --</p> <p>19 Q Go ahead, I'm sorry.</p> <p>20 A There were grounds.</p> <p>21 Q I see. I see. Did you ultimately</p> <p>22 form any opinion about Margaret Green that is</p>	<p>Page 46</p> <p>1 April 4th we're talking about.</p> <p>2 MR. HOOKS: April 4th. Thank you very</p> <p>3 much. I was struggling there, but April 4th is</p> <p>4 the date, right?</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. HOOKS:</p> <p>7 Q And tell me about the circumstances of</p> <p>8 your travel. Did you travel down there alone to</p> <p>9 the school district?</p> <p>10 A I traveled from St. Louis to Memphis</p> <p>11 alone.</p> <p>12 Q I see. Did you go by airplane?</p> <p>13 A Not from St. Louis to Memphis. I</p> <p>14 drove.</p> <p>15 Q I see. And then from Memphis to</p> <p>16 Cleveland did you drive or did you fly?</p> <p>17 A I drove.</p> <p>18 Q I see.</p> <p>19 A I was driven.</p> <p>20 Q You were driven from Memphis. Who</p> <p>21 drove you from Memphis?</p> <p>22 A Aziz.</p>
<p>1 relevant to this case?</p> <p>2 A It's an old facility.</p> <p>3 Q I see. And is it because of that you</p> <p>4 concluded that a new middle school should be</p> <p>5 constructed, built? When I say new middle</p> <p>6 school, I don't mean a retrofit but built from</p> <p>7 the ground up to house all district students.</p> <p>8 A No, not necessarily.</p> <p>9 Q I see.</p> <p>10 A There's a lot of information I have to</p> <p>11 form that opinion.</p> <p>12 Q I see.</p> <p>13 A Not just one visit.</p> <p>14 Q Did your visit to the school district</p> <p>15 consist of your visit on Saturday only?</p> <p>16 A Yes.</p> <p>17 Q And that was the immediate past</p> <p>18 Saturday from this date where we're sitting here</p> <p>19 today which is Friday so it would have been last,</p> <p>20 literally last Saturday?</p> <p>21 A Literally last Saturday.</p> <p>22 MR. AHMAD: For the record, that's</p>	<p>Page 47</p> <p>1 Q I see. And so what time did the two</p> <p>2 of you all arrive at the school district</p> <p>3 approximately on Saturday, April 4th?</p> <p>4 A We arrived in the town of Cleveland</p> <p>5 approximately 9 o'clock.</p> <p>6 Q In the morning?</p> <p>7 A Yes.</p> <p>8 Q And what time approximately did you</p> <p>9 leave the town?</p> <p>10 A Approximately 3, 3:30.</p> <p>11 Q I see. And did you take any notes</p> <p>12 when you were there about anything?</p> <p>13 A I did.</p> <p>14 Q And what did those notes include</p> <p>15 generally? I mean, you don't have to tell me.</p> <p>16 A Right.</p> <p>17 Q You can just tell me topic areas for</p> <p>18 right now.</p> <p>19 A Topic areas. Specific things that</p> <p>20 people mentioned that I wanted to remember.</p> <p>21 Q I see. And do you have an estimate</p> <p>22 for how many people you talked to?</p>

<p style="text-align: right;">Page 50</p> <p>1 A Fifteen. 2 Q Fifty people? 3 A Fifteen. 4 Q Fifteen people? I see. And with 5 regard to those 15 people, did any of those 15 6 people express a preference for the construction 7 of a new consolidated high school or middle 8 school?</p> <p>9 A Are you asking about consolidated only 10 if it's new?</p> <p>11 Q Yes. In this particular question I 12 am.</p> <p>13 A Okay. Not specifically connecting 14 those two thoughts is my answer.</p> <p>15 Q Okay. Did any of those express a 16 desire for a consolidated school of any kind?</p> <p>17 A Yes.</p> <p>18 Q Okay. And how many of the 15 19 expressed a desire for a consolidated school?</p> <p>20 A There were only four people that I 21 talked directly about that topic with.</p> <p>22 Q I see. And do you know the names of</p>	<p style="text-align: right;">Page 52</p> <p>1 A I said concurred. 2 Q Concurred, okay. And by that I guess 3 you mean it agreed with what was contained in the 4 notes of the focus group meetings?</p> <p>5 A Yes, what I saw as being helpful from 6 the focus group meetings.</p> <p>7 Q Okay. And what did it, as you say, 8 concur with? In other words, what did those four 9 individuals concur with from the focus group that 10 you believe was helpful?</p> <p>11 A That it's time for Cleveland, 12 Mississippi, to move forward into the 21st 13 century.</p> <p>14 Q I see. And when you say it's time for 15 it to move forward in the 21st century, how did 16 you interpret that? What did you take away from 17 that?</p> <p>18 A To dismantle the de jure system of 19 segregation in the public schools.</p> <p>20 Q I see. And with regard to the 21 specifics how that might be accomplished, 22 assuming it exists, did you take away any</p>
<p style="text-align: right;">Page 51</p> <p>1 those four people with whom you spoke about the 2 topic of a consolidated high school?</p> <p>3 A They are in the list that I said I 4 could produce for you.</p> <p>5 Q I see, okay.</p> <p>6 A They did concur what was in the focus 7 groups.</p> <p>8 Q And with respect to the focus groups, 9 did you review -- You were not retained as an 10 expert at the time the focus groups were going 11 on, correct?</p> <p>12 A As far as I know, that's correct.</p> <p>13 Q Okay. And with regard to those focus 14 groups, did you -- Let me ask it this way. How 15 did you learn, Dr. Wells, what was discussed at 16 the focus groups?</p> <p>17 A I read the transcripts.</p> <p>18 Q I see. So you were provided with the 19 minutes of the meetings? I see. And with regard 20 to your experiences last Saturday in which you 21 talked to these four individuals, you said it 22 confirmed what you had --</p>	<p style="text-align: right;">Page 53</p> <p>1 specific measures that these four individuals 2 were recommending in order to accomplish that?</p> <p>3 A Could you repeat that question?</p> <p>4 Q Well, I'm not sure I can. Let me ask 5 it this way though. With respect to the four 6 individuals with whom you spoke, you said that 7 you believed that they concurred with the focus 8 groups based on what they were telling you, 9 right?</p> <p>10 And I asked you what they concurred 11 about and you said, well, they concurred with the 12 idea that the schools should be brought forward 13 in the 21st century, right?</p> <p>14 And what I was trying to get at was, 15 well, what did they mean by that? Did they mean 16 consolidation or do you know what they meant?</p> <p>17 How did you interpret that?</p> <p>18 A Well, more specifically on Saturday I 19 would interpret that as, yes, consolidation.</p> <p>20 Q When you reviewed these minutes of the 21 focus groups, did you review minutes of the focus 22 groups that were conducted by the school district</p>

<p style="text-align: right;">Page 54</p> <p>1 or Dr. Smrekar or both or do you know? 2 A I believe both. 3 Q Okay. 4 A Whatever transcripts I was given. 5 Q Now, if you'll look with me on Page 9 6 of your report. Toward the bottom, I think it's 7 the last paragraph, you make some conclusions 8 based on your review of average ACT scores of 9 Cleveland High students versus East Side 10 students.</p> <p>11 And my question to you is have you 12 reviewed any state testing information with 13 respect to those two schools, the students at 14 those two schools?</p> <p>15 A Well, we downloaded. We do have the 16 citation under the Mississippi Department of Ed 17 and I believe we also downloaded the school 18 reports from each of the schools in the District 19 which includes test scores.</p> <p>20 Q Okay, but your analysis here or your 21 conclusion on Paragraph 9 is predicated on your 22 review of grade point averages and ACT scores,</p>	<p style="text-align: right;">Page 56</p> <p>1 a lot that informs that paragraph because it's 2 differences in access to challenging curriculum, 3 so it's a lot of what also comes before.</p> <p>4 MR. HOOKS: Okay. Now, I think when 5 you were talking about the student -- If you'll 6 look with me in Appendix A to your report, I 7 believe this is the breakdown or list of 8 materials that you have reviewed that were 9 provided to you by the United States Department 10 of Justice in this matter.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. HOOKS:</p> <p>13 Q Okay, now, you were just referring to 14 information provided by the State Department of 15 Education I believe. Could you point out to me 16 what it was that you reviewed?</p> <p>17 A It's listed on our references under 18 Mississippi, Department of Education school 19 reports on Page 33.</p> <p>20 Q Okay. And what school reports, what 21 years? Did you look at just one year, 2015?</p> <p>22 A I'd have to go back and look at it.</p>
<p style="text-align: right;">Page 55</p> <p>1 correct? 2 A That's correct. 3 Q And there was no other data other than 4 grade point averages and ACT scores that informed 5 your conclusion on Paragraph 9, correct? 6 A I would not necessarily say that. 7 Q I'm sorry, Page 9. 8 A Could you repeat that question? 9 Q Sure. Is there any other data, 10 Doctor, other than ACT scores and grade point 11 averages that informed your conclusion on the 12 bottom of Page 9? 13 MR. AHMAD: Objection, asked and 14 answered. She just pointed you to the reference. 15 MR. HOOKS: Oh, I'm sorry. What did 16 she say? I thought she asked me to repeat the 17 question. 18 MR. AHMAD: Two questions ago she 19 pointed you to the reference to the state quality 20 reports that have the state testing. 21 MR. HOOKS: Okay. 22 THE WITNESS: And I would say there's</p>	<p style="text-align: right;">Page 57</p> <p>1 Some of them go back a couple, a few, a few 2 years, cover more than one year. 3 Q I see. 4 A It's a large database. 5 Q And what is the data? What is the 6 data that's contained in the reports or are 7 contained in these reports? 8 A Well, I mean, surely you know under 9 the federal law No Child Left Behind states are 10 required to list school report cards with their 11 accountability data and they also include 12 demographic information. 13 Q I see. And I'm not always asking 14 questions for my benefit but for the benefit of 15 others who might read the transcript just so 16 we're clear on what you looked at. 17 A Okay. 18 Q In terms of looking at the school 19 reports, did the school reports indicate to you 20 any benchmarks or do they make any conclusions as 21 to the relative quality of educational progress 22 being achieved at the various schools in the</p>

<p>1 District?</p> <p>2 A Could you repeat that question?</p> <p>3 Q Sure. Are these school reports report 4 cards of sorts that tell you how the schools are 5 doing?</p> <p>6 A They're mandated reports on student 7 accountability data and they include demographic 8 data.</p> <p>9 Q Okay. Did you conduct any research or 10 have you conducted any research in the Cleveland 11 School District with respect to socioeconomic 12 factors that may influence ACT scores?</p> <p>13 A Could you repeat that question?</p> <p>14 Q Have you conducted any research in the 15 Cleveland School District with regard to the 16 question of whether socioeconomic factors could 17 influence ACT scores?</p> <p>18 A Not directly in Cleveland, no.</p> <p>19 Q Okay. And is the same also true for 20 not just socioeconomic factors affecting ACT 21 scores but grade point averages generally?</p> <p>22 A I'm not sure what you're asking me.</p>	<p>Page 58</p> <p>1 Q Not just poorer. I just mean any 2 socioeconomic factors. Did you look at any 3 socioeconomic factors, free and reduced lunch 4 information, et cetera, to determine whether any 5 of those socioeconomic factors might have 6 influenced differences in grade point average?</p> <p>7 A Okay, so you're saying there are many 8 socioeconomic factors such as free and reduced 9 price lunch. Are there others you want me to 10 talk about?</p> <p>11 Q Yes. Did you look at any of them?</p> <p>12 A Any of them. I'm not sure exactly 13 what you want to know, like what are you 14 considering socioeconomic? There are kind of 15 different definitions of it depending on whose 16 work you look at. Usually in education we cite 17 free and reduce price lunch rates.</p> <p>18 Q Okay, did you examine free and reduced 19 lunch data in connection with any of your 20 opinions on the Cleveland School District?</p> <p>21 A Any of my opinions. Probably yes.</p> <p>22 Q Okay. What does probably yes mean?</p>
<p>1 Q Okay. Have you looked at any data to 2 determine whether in the Cleveland School 3 District socioeconomic factors may influence the 4 grade point average differences?</p> <p>5 A Are you saying that the students in 6 East Side are poorer than the students in 7 Cleveland?</p> <p>8 Q No, ma'am. I'm not saying that. I'm 9 asking you if you formed any opinions along those 10 lines.</p> <p>11 A I don't really understand your 12 question as it relates to this paragraph.</p> <p>13 Q Okay, with respect to the last 14 paragraph on Page 9, did you look at any data 15 that would tell you whether or not socioeconomic 16 factors of students and their families could 17 influence differences in grade point averages?</p> <p>18 A Across the two schools?</p> <p>19 Q Yes.</p> <p>20 A So you're saying that the students in 21 one school are poorer than the students in 22 another school and whether I looked at that?</p>	<p>Page 61</p> <p>1 Did you look at it or didn't you?</p> <p>2 A We have the free and reduced price 3 lunch data.</p> <p>4 Q Okay. Did you list that as something 5 you had consulted in forming your opinions in 6 this case?</p> <p>7 A Well, it's in the report cards.</p> <p>8 Q I see. Did you look at it and conduct 9 any analysis with regard to free and reduced 10 lunch in this case?</p> <p>11 A Could you be more specific on what 12 kind of analysis you're talking about?</p> <p>13 Q Okay. Did you look at the numbers and 14 did you add them up or divide them or subtract 15 them to see what the data showed?</p> <p>16 A The numbers on free and reduced price 17 lunch, did I add them or subtract them?</p> <p>18 Q Yes.</p> <p>19 A To what?</p> <p>20 Q Did you manipulate them in any way on 21 an adding machine or a calculator? Did you put 22 them in a spreadsheet? Did you do anything with</p>

1 those numbers to try to understand what they
2 meant?

3 A I'm not sure. I'd have to refer back
4 to my Excel file.

5 Q I see. But you haven't listed that in
6 your report anywhere that you've done that,
7 correct?

8 A Not specifically, no.

9 Q And you've not listed anywhere
10 generally that you've done it, right?

11 A What do you mean by generally?

12 Q Well, you don't say anything in your
13 report about looking at free and reduced lunch
14 data, correct?

15 A I'd have to look and make sure before
16 I answer.

17 Q Okay, can you do that? We'll take a
18 moment. You can look at it and tell me whether
19 you have anything to say about free and reduced
20 lunch.

21 A You want me to look through the whole
22 report?

1 free and reduced lunch data?

2 A That there are many poor students in
3 the District and that there's a higher rate of
4 poverty in the all black schools.

5 Q Okay. Where have you referenced that
6 in your report, that you looked at the free and
7 reduced lunch data?

8 A It's in the report card.

9 Q I see. Did you form any opinions or
10 analysis as to whether the higher incidence of
11 the free and reduced lunch of East Side High
12 School students influenced the discrepancy in the
13 grade point averages that you have referred to on
14 Page 9 of your report?

15 A Are you asking me to use poverty as an
16 excuse for low achievement?

17 Q No, ma'am, I'm not.

18 A Okay.

19 Q I'm not asking you to do anything.

20 A Okay, I did not do that.

21 Q I'm asking you what you did.

22 A I did not do that.

1 Q Yes, ma'am.

2 MR. AHMAD: That's fine. Take a
3 minute. Look through.

4 THE WITNESS: If I say anything about
5 free and reduced price lunch?

6 MR. HOOKS: Yes.

7 THE WITNESS: Specifically? The term
8 free and reduced price lunch? Or poor, the word
9 poor? I'm just trying to answer your question,
10 making sure.

11 MR. HOOKS: Well, Doctor, to be quite
12 candid with you, I really don't think you are.
13 I'm asking you did you look at the free and
14 reduced lunch data of students at the Cleveland
15 School District?

16 THE WITNESS: I did.

17 MR. HOOKS: You did? Did you make any
18 conclusions based on that data that you put in
19 your report?

20 THE WITNESS: Yes.

21 BY MR. HOOKS:

22 Q What are your conclusions based on

1 Q Okay, and the same is true for the ACT
2 scores. Did you look at the higher incidence of
3 free and reduced lunch at East Side High School
4 in connection or in attempt to explain a
5 discrepancy with regard to ACT scores between
6 Cleveland High School students and East Side High
7 School students?

8 A So, again, I believe you're asking me
9 to use --

10 Q No, ma'am, I'm not.

11 A -- poverty as a reason for lower test
12 scores.

13 Q No, ma'am, I'm not asking you to do
14 anything. I'm asking you what you did in forming
15 your report.

16 A So you're asking me if I wrote that
17 the reason why these test scores are lower is
18 because the East Side students have a higher rate
19 of free and reduced price lunch?

20 Q No, ma'am. I'm not asking you that at
21 all. I'm asking you if you looked at those test
22 scores in an effort to determine whether those,

1 I'm sorry, the free and reduced lunch data in an
 2 effort to determine whether that data was
 3 connected or could be a cause of the discrepancy
 4 in regard to the ACT scores.

5 A Directly or indirectly?

6 Q Did you look at the data to determine
 7 whether --

8 A I know enough about education to know
 9 that many factors cause test score differences.

10 Q That's not what I asked you.

11 MR. AHMAD: Can you restate what the
 12 question is that's --

13 MR. HOOKS: You want to read my
 14 questions back? It may take several of them but
 15 we're not moving from this topic until we get an
 16 answer.

17 COURT REPORTER: All right, let's see.
 18 I don't have the question specifically written
 19 down but I can review my notes.

20 BY MR. HOOKS:

21 Q Well, I can tell you what it is. Did
 22 you look at the free and reduced lunch

1 differential access to curriculum, challenging
 2 curriculum.

3 Q I understand that. You said one of
 4 the differences is the differences in access to
 5 curriculum across these two schools. That's one,
 6 right?

7 A Yes.

8 Q And then you say, "with the Cleveland
 9 High School students graduating with an average
 10 grade point average more than half a point
 11 above," "half a point about the average East Side
 12 students," I think you mean above, "the average
 13 East Side students, 3.10 versus 2.41 in 2014."

14 All I'm asking you is did you go
 15 reference the free and reduced lunch data in an
 16 effort to explain that discrepancy or did you
 17 just attribute it all to the differences in
 18 challenging curriculum?

19 A I am aware as an expert in the field
 20 of education that differences in test scores,
 21 less so with grade point averages, can relate to
 22 many, many factors.

1 information in an effort to understand the
 2 discrepancy between Cleveland High School
 3 students' and East Side students' ACT scores?

4 A Wow. I don't think I thought about it
 5 that way. In this paragraph I'm recognizing that
 6 there are many factors that lead to differences
 7 in test scores, a primary one of which is
 8 different access to curriculum.

9 Q Okay. You've --

10 A But thank you for clarifying the
 11 poverty differential between East Side and
 12 Cleveland.

13 Q I'm not clarifying anything, Doctor.
 14 I'm not here to make any points. I'm here to
 15 know, to find out what you're telling the Court
 16 in this report. So I'm not here to make points.

17 A Okay, if that --

18 Q I've only asked questions today. In
 19 your report, you list --

20 A Okay. If that is your goal, it's
 21 pretty clear that right here I'm saying that one
 22 of the causes of the differences is the

1 Q Is one of those --
 2 A One of those is challenging, access to
 3 challenging curriculum.

4 Q Okay, what are some other factors that
 5 can explain a discrepancy in grade point
 6 averages?

7 A Well, grade point average in
 8 particular is very sensitive to curriculum, very
 9 sensitive. I'm sure you are aware of weighted
 10 grade point averages in AP and honors classes so
 11 that's highly sensitive. I would put much more
 12 weight on that as related to challenging
 13 curriculum.

14 Q What are some other factors that could
 15 influence the issue, the discrepancy?

16 A In access to challenging curriculum?

17 Q No, differences in grade point
 18 average. Is poverty one of those?

19 A Access to high-quality teachers.

20 Q Okay. Is poverty one of those?

21 A There is a correlation between poverty
 22 and student achievement. That's not causation,

<p style="text-align: right;">Page 70</p> <p>1 nor should it ever be used as an excuse. 2 Q Okay, there's a correlation, you 3 admit, between poverty and student achievement? 4 A A national correlation -- 5 Q But you're not -- 6 A -- that can be offset by educational 7 equity and access to challenging curriculum in 8 local context. 9 Q But in this local context with regard 10 to the Cleveland School District, you did not 11 conduct -- 12 A There is not equal access to 13 challenging curriculum. 14 Q Well, you did not conduct any analysis 15 of whether the relative poverty of students 16 influences their grade point average or ACT 17 scores? 18 A I do know that relative poverty of 19 students is correlated with access to challenging 20 curriculum. 21 Q But that's not my question. My 22 question is did you review any of the data in an</p>	<p style="text-align: right;">Page 72</p> <p>1 THE WITNESS: Objection. 2 MR. AHMAD: No. Misstates her prior 3 testimony. She pointed you to the footnote, the 4 references, the report cards that contain the 5 data that you're asking about. 6 MR. HOOKS: Have you ever studied in 7 Cleveland School District private schools and 8 what schools exist there? 9 THE WITNESS: Have I studied? What 10 exactly do you mean by studied? 11 BY MR. HOOKS: 12 Q How would you define the word studied? 13 A Normally I use the word studied to say 14 that I've done thorough and efficient data 15 collection and conducted a study. 16 Q Okay. Let's use that definition. 17 Have you studied private schools in the 18 Cleveland, Mississippi, or Bolivar County area? 19 A I have not. 20 Q Have you studied parochial schools and 21 their availability in the Cleveland, Mississippi, 22 and Bolivar County area?</p>
<p style="text-align: right;">Page 71</p> <p>1 effort to explain these disparities, the data of 2 free and reduced lunch or socioeconomic factors 3 like poverty? 4 A I'm aware of the correlation between 5 poverty concentrated in all black schools in 6 Cleveland and a discrepancy in student outcomes. 7 Q But with respect to looking at any 8 data in particular for Cleveland, you did not 9 look at any data for Cleveland in particular? 10 A Cleveland High School or Cleveland -- 11 Q Yes, Cleveland School District. 12 A I'm not understanding your question, 13 when you say I didn't look at data. I just told 14 you I did. 15 Q You didn't though. You didn't tell me 16 that you looked at data specifically regarding 17 the Cleveland School District. You said, if I 18 understand you correctly, Doctor, that you base 19 that on your experience generally. 20 A No. I'm -- 21 MR. AHMAD: Objection, misstates prior 22 --</p>	<p style="text-align: right;">Page 73</p> <p>1 A I have not. 2 Q Have you studied home schooling trends 3 in the Cleveland, Mississippi, and Bolivar County 4 area? 5 A No. 6 Q Did you talk with any individuals 7 affiliated with Bayou Academy or Presbyterian Day 8 School? 9 A I don't know. 10 Q Other than your meeting that you 11 described last Saturday, have you conducted any 12 telephone interviews with parents or other 13 individuals from the Cleveland School District 14 community, let's say, about this case? 15 A I have not. 16 Q Do you know where ACT prep courses are 17 offered in the District? 18 A Where? 19 Q Yes. 20 A As in where they're housed? 21 Q Yes, where they're offered. Where do 22 the ACT prep courses take place in the school</p>

Page 74

1 district? Do you know that?

2 A I'd have to look. Not off the top of
3 my head. I don't know all of them, where they
4 are, where they are. I do know they're less
5 effective than having access to challenging
6 curriculum.

7 Q Well, let's talk about that. When you
8 say lack of access to challenging curriculum,
9 what are you referring to?

10 A I'm referring to AP classes in
11 particular.

12 Q Okay, what is your understanding of a
13 denial of access to AP classes?

14 A What is my understanding of a denial
15 of access? I'm not --

16 MR. AHMAD: Could you clarify what the
17 question is?

18 THE WITNESS: -- sure what that means.

19 BY MR. HOOKS:

20 Q Well, you contend that there is an
21 inequality with regard to the availability of AP
22 classes. I'm just curious what you mean by that.

1 Q Okay. What about the International
2 Baccalaureate program? Is it offered at East
3 Side?

4 A It is.

5 Q Okay. And what conclusions do you
6 draw in, or do you make a comparison between IB
7 classes and AP classes?

8 A Could you be more specific?

9 Q Okay, hold on one second. On Page 9
10 you say in the next to last paragraph, I could
11 direct your attention there, "East Side High
12 School, on the other hand, offers no Advanced
13 Placement classes but does provide the
14 International Baccalaureate program, or IB, which
15 is analogous to AP in terms of challenging high
16 school curriculum that will assist students in
17 getting into competitive colleges." Is that
18 right?

19 A Yes, according to, yes.

20 Q Okay. So I'm just interested in
21 knowing how it is that you claim that there is a
22 inequality in educational programming at the two

Page 75

Page 77

1 A Are you talking about in Cleveland in
2 particular?

3 Q Yes.

4 A I'm talking about AP classes being
5 offered in one building and not the other.

6 Q Okay, let's talk about that. What AP
7 classes are offered at Cleveland High School?

8 A Biology, English language and, when
9 available, U.S. history.

10 Q And what AP classes are available at
11 East Side?

12 A None that I'm aware of.

13 Q Okay. Did you ask or make inquiry
14 about AP courses and whether they're available at
15 East Side?

16 A Did I ask who?

17 Q Have you made any analysis or inquiry
18 about that? You said you don't know. I'm just
19 wondering if you've looked into it.

20 A Well, I have the District documents
21 that list the classes offered in each high school
22 and I did not see AP offered in East Side.

1 schools.

2 A I think you should continue reading
3 the next to last paragraph.

4 Q Okay. "East Side offers IB English,
5 history, math, psychology and art. The
6 difference between the two schools and program,
7 however, has much to do with student access and
8 race.

9 "In fact, only 44 East Side High
10 School students are enrolled in IB courses
11 according to District documents. The majority of
12 students taking the IB courses offered at East
13 Side High School are white students currently
14 enrolled in the Cleveland High School.

15 "Given that East Side has no AP
16 classes, this places black East Side High
17 students at a profound disadvantage when it comes
18 to access to college preparatory curriculum."

19 Can you provide me with the source of
20 the portion of your report that says, "In fact,
21 only 44 East Side High School students are
22 enrolled in IB courses," and that the majority of

20 (Pages 74 to 77)

<p style="text-align: right;">Page 79</p> <p>1 those students taking the IB courses offered at 2 East Side are white students?</p> <p>3 A I believe it was in the compliance 4 report, Exhibit 7. I'd have to double-check, but 5 it listed the students taking the courses, 6 enrolled in the classes.</p> <p>7 Q I see.</p> <p>8 A And what high school they were 9 enrolled. We also spoke to a mother whose two 10 sons do participate in the IB program at East 11 Side and they're East Side students. She 12 informed us that the classes start late because 13 they're often waiting for the Cleveland students 14 who attend so the class time is smaller, shorter, 15 than otherwise would be.</p> <p>16 MR. AHMAD: Mr. Hooks, would this be 17 an appropriate time for a break?</p> <p>18 MR. HOOKS: Sure.</p> <p>19 MR. AHMAD: Okay.</p> <p>20 MR. HOOKS: Well, how long do you want 21 to take a break?</p> <p>22 MR. AHMAD: Can we go off the record,</p>	<p style="text-align: right;">Page 80</p> <p>1 A Yes. I'm actually aware that's not a 2 legal mandate.</p> <p>3 Q I'm sorry?</p> <p>4 A I'm aware now that that is not a legal 5 mandate.</p> <p>6 Q Okay. So would you say that --</p> <p>7 A It's a guideline, a general guideline 8 that's used in desegregation cases and should be 9 a goal of a district under a court order.</p> <p>10 Q I see, but it's not a legal mandate in 11 this case?</p> <p>12 A Not in this case, in other cases.</p> <p>13 Q So on Page 23 and on Page 8, your 14 report is in error with respect to being a legal 15 mandate?</p> <p>16 A In error in terms of those two words, 17 "legal mandate," yes. It's a good guideline.</p> <p>18 Q If the 15 percent is not a legal 19 mandate, are you offering any opinion about the 20 percentage of white student enrollment that would 21 be necessary at East Side in order to achieve a 22 desegregated school?</p>
<p style="text-align: right;">Page 79</p> <p>1 if you haven't already done that? 2 (Whereupon, the above-entitled matter 3 went off the record at 11:35 a.m. and resumed at 4 11:47 a.m.)</p> <p>5 BY MR. HOOKS:</p> <p>6 Q Doctor, if you look with me on Page 23 7 of your report, all right, do you see a reference 8 to -- In the first paragraph at the top. It's 9 not the first full paragraph. It says that you 10 make reference to a court-mandated racial 11 guideline for each school to be no more than plus 12 or minus 15 percent of the District student 13 population.</p> <p>14 A Right.</p> <p>15 Q And then if you'll look with me on 16 Page 8 of your report in the first full paragraph 17 at the very end it begins, "Given the Cleveland 18 School District's small size and student 19 population as well as the legal mandate that 20 every school in the District should be within 15 21 percentage points of the District's racial 22 composition overall --</p>	<p style="text-align: right;">Page 81</p> <p>1 A Could you repeat that?</p> <p>2 Q Sure. If the 15 percent is not a 3 legal mandate, are you offering any opinion about 4 the percentage of white student enrollment that 5 would be needed at East Side to achieve a 6 desegregated school in your opinion?</p> <p>7 A My opinion is the two high schools 8 should be consolidated.</p> <p>9 Q Okay. So you will not at a hearing of 10 this matter be offering an opinion about whether 11 or not, for example, a plus or minus 15 percent 12 deviation within the District-wide average of 13 white students at East Side would be consistent 14 with the Constitution or desegregation law?</p> <p>15 A I would offer an opinion that a plus 16 or minus 15 percent is a valid guideline that 17 should be considered in looking at the District's 18 compliance with desegregation court orders.</p> <p>19 Q Okay. Do you offer any opinions about 20 whether Hayes Cooper and Bell, the two magnet 21 schools, are successful magnet schools or not in 22 terms of desegregation?</p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 A In terms of desegregation, they have 2 accomplished a better racial balance than they 3 had before.</p> <p>4 MR. AHMAD: Excuse me. Could I ask 5 folks on the phone to please mute their phones or 6 stop moving furniture? Thank you.</p> <p>7 BY MR. HOOKS:</p> <p>8 Q Doctor, I have been reading some of 9 your materials and in particular I have read an 10 article that you wrote called "Divided We Fall," 11 colon, "The Story of Separate and Unequal 12 Suburban Schools 60 Years after Brown v. Board of 13 Education."</p> <p>14 I have a couple of questions about 15 this article and generally about your research in 16 the Long Island area. Are those school districts 17 under or subject to desegregation plans at the 18 present time?</p> <p>19 A They are not.</p> <p>20 Q And with respect to the New York City 21 School District that you've written a lot about, 22 the New York --</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. HOOKS: Did you rely on any, did 2 you rely on this research report in formulating 3 your opinion that you wrote dated March 20th, 4 2015?</p> <p>5 THE WITNESS: I think I bring a large 6 body of research and experience in this area to 7 writing anything or analyzing any specifics on 8 any case or school district so I'm not sure 9 exactly what you mean.</p> <p>10 MR. HOOKS: You reference this article 11 in your --</p> <p>12 THE WITNESS: I do.</p> <p>13 MR. HOOKS: -- materials, is that 14 right? I don't know if I want to make this an 15 exhibit or not. I just want to ask some 16 questions about it.</p> <p>17 MR. AHMAD: That's fine. I mean, if 18 you have a long line of questions with specific 19 page numbers, it might be helpful for the record 20 to have it in as an exhibit. I mean, it's your 21 record, though, so it's up to you.</p> <p>22 MR. HOOKS: If you look with me on</p>
<p style="text-align: right;">Page 83</p> <p>1 A I actually have not written a lot 2 about New York City. I don't know what you mean 3 by a lot, but.</p> <p>4 Q Okay. Well, fair enough. With 5 respect to the public schools of New York City, 6 are those schools subject to a desegregation 7 plan?</p> <p>8 A No. There are certain schools within 9 New York City that are magnet schools and are 10 intended to desegregate but overall, the system, 11 no.</p> <p>12 Q And if you'll look with me and I can 13 show you a copy of it, your "Divided We Fall" 14 article, may I show you Page 34?</p> <p>15 A Just to be clear, it's a research 16 report, not an article.</p> <p>17 Q Oh, I'm sorry.</p> <p>18 A That's okay.</p> <p>19 Q Your research report.</p> <p>20 MR. AHMAD: Mr. Hooks, are you going 21 to enter these into evidence and mark exhibits, 22 or --</p>	<p style="text-align: right;">Page 85</p> <p>1 Page 34, there is a chart there that talks about 2 racial percentages of school districts I believe, 3 is that right? And in --</p> <p>4 THE WITNESS: Wait a minute. The pie 5 chart I think is the overall student population, 6 "Charts of racial makeup of public school student 7 population in Nassau County." That's the overall 8 county. That's 53 school districts, about 9 220,000 students.</p> <p>10 BY MR. HOOKS:</p> <p>11 Q All right, if you'll look with me at 12 Table 3, there are four categories of that table, 13 correct?</p> <p>14 A Yes.</p> <p>15 Q And Category 4 you list predominantly 16 white. That's how you would classify a 17 particular school district, right?</p> <p>18 A Only in this context. And this 19 relates to our discussion of dissimilarity index 20 in the report because what we know from 21 desegregation research is when you categorize or 22 talk about racial balance you have to</p>

22 (Pages 82 to 85)

<p>1 contextualize it.</p> <p>2 Q Okay. All right, with respect to</p> <p>3 Category 4, what do you mean there when you talk</p> <p>4 about predominantly white with 80 percent or more</p> <p>5 of the students are white?</p> <p>6 A What do we talk about it?</p> <p>7 Q Like what does that mean? What is</p> <p>8 that discussing?</p> <p>9 A That means that in this context of</p> <p>10 this county, which you can look at the pie chart</p> <p>11 and see the overall demographics of the county,</p> <p>12 so specific to that county the category of school</p> <p>13 districts that have 80 percent or more white</p> <p>14 students in them are considered predominantly</p> <p>15 white within this context.</p> <p>16 Q I see. So does the Table 3 change or</p> <p>17 depend on the demographics in the pie charts</p> <p>18 above it?</p> <p>19 A Does Table 3 depend on the</p> <p>20 demographics of the pie charts above it? Could</p> <p>21 you be more specific?</p> <p>22 Q Well, I'm just trying to understand</p>	<p>Page 86</p> <p>1 came up with those four gap categories. It was</p> <p>2 years of analysis and related to the quantitative</p> <p>3 analysis that we did as well as the survey data.</p> <p>4 Q I see. So in this particular context</p> <p>5 of Nassau County school districts by category,</p> <p>6 the school district or the number of schools I</p> <p>7 guess it would be in Category 4 --</p> <p>8 A No, those are districts.</p> <p>9 Q Okay, districts. I'm sorry. The</p> <p>10 number of districts that you would regard as</p> <p>11 predominantly white are defined as those</p> <p>12 districts with 80 percent or more of the students</p> <p>13 are white, correct?</p> <p>14 A In that context.</p> <p>15 Q In that context?</p> <p>16 A Yes.</p> <p>17 Q And then on Category 2, you say, well,</p> <p>18 there are 16 districts in Nassau County in which</p> <p>19 they are called diverse, black and Hispanic. And</p> <p>20 that you describe as the white student population</p> <p>21 is between 40 and 79 percent of the district and</p> <p>22 less than 50 percent of the students are Asian,</p>
<p>1 like, for example, if you were to take the table</p> <p>2 and try to understand something about the</p> <p>3 Cleveland School District from the table, could</p> <p>4 you say, well, I'm going to determine whether the</p> <p>5 school district is under Category 1, 2, 3 or 4?</p> <p>6 A Oh, no, no, no. You wouldn't apply</p> <p>7 these categories to a different context.</p> <p>8 Q I got you.</p> <p>9 A These categories were defined for this</p> <p>10 context and years of analyzing district-level</p> <p>11 data specific to the demographic makeup of each</p> <p>12 district.</p> <p>13 Q How do, and this is just a real</p> <p>14 question I had from reading the article. Could</p> <p>15 you explain how, like Table 7, let me see here,</p> <p>16 Figure 7, which are those pie charts above, could</p> <p>17 you explain the relationship between Figure 7 and</p> <p>18 Table 3? I assume that one follows from the</p> <p>19 other. I may be wrong.</p> <p>20 A Well, one's related to the other but</p> <p>21 they don't follow from each other necessarily</p> <p>22 because if you read the report you'll see how we</p>	<p>Page 87</p> <p>1 is that right?</p> <p>2 A For Nassau County, yes, for the school</p> <p>3 districts.</p> <p>4 Q All right. How would it shift or</p> <p>5 adjust if you were to examine another</p> <p>6 hypothetical school district? How would Table 3</p> <p>7 adjust --</p> <p>8 A Well, this is 53 school districts so</p> <p>9 it's not, this is not about one school district.</p> <p>10 This is about segregation across school district</p> <p>11 boundaries.</p> <p>12 The nice thing about the South is that</p> <p>13 you have these larger school districts which help</p> <p>14 to prevent this kind of cross-district</p> <p>15 segregation that you see in Nassau County.</p> <p>16 Q I see.</p> <p>17 A So you wouldn't use this particular</p> <p>18 analysis or these categories in a Southern school</p> <p>19 district. You have to be very specific to the</p> <p>20 context that you're studying which is what the</p> <p>21 research says you should be doing.</p> <p>22 Q So how would you in the context of, or</p>

23 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 maybe you don't have an opinion on this, in the 2 context of Mississippi Delta would you know how 3 you would define a predominantly white school 4 district?</p> <p>5 A I'd have to examine in --</p> <p>6 Q And the same would be true for any of 7 these categories?</p> <p>8 A These categories wouldn't necessarily, 9 would not apply I'm assuming based on the overall 10 demographics in Mississippi.</p> <p>11 Q Okay, I see. And with regard to the 12 overall demographics in Mississippi, I just want 13 to ask a few questions about that. With regard 14 to Mississippi Delta itself, have you done any 15 research in particular in and around the Delta --</p> <p>16 A Could you define in and around?</p> <p>17 Q Well, have you written reports, 18 articles or scholarly publications of any kind in 19 which your research centered on Mississippi 20 school districts?</p> <p>21 A Not Mississippi specifically but in 22 many Southern school districts.</p>	<p style="text-align: right;">Page 92</p> <p>1 we're talking about multiple districts or a 2 school district of the Delta? I'm --</p> <p>3 MR. HOOKS: Well, let's focus on 4 Cleveland. The Cleveland School District, which 5 is situated in the Mississippi Delta as you know, 6 let's focus on that.</p> <p>7 With regard to the Cleveland School 8 District as a practical reality, a practical 9 matter given the demographics of the community, a 10 school district that is attempting or trying to 11 create a diverse student population must have 12 white students.</p> <p>13 THE WITNESS: A school district that 14 is attempting to create a diverse population? 15 I'm not sure I understand what you're saying.</p> <p>16 BY MR. HOOKS:</p> <p>17 Q Well, is it possible for a school 18 district like Cleveland to have diversity in 19 student enrollment without white students?</p> <p>20 A It's possible if you -- Yes.</p> <p>21 Q How would it be possible given the 22 demographic reality of it?</p>
<p style="text-align: right;">Page 91</p> <p>1 Q I see. And in those contexts, were 2 the school districts majority African American?</p> <p>3 A Some of them.</p> <p>4 Q I see. And with regard to the overall 5 demographics in Mississippi Delta, is it true 6 that if a school district is trying to achieve 7 diversity in terms of student enrollment, are 8 there statistically significant populations of 9 students other than white and black students in 10 the Mississippi Delta or do you know?</p> <p>11 A I would have to review that data 12 before I answer.</p> <p>13 Q Okay. Would you agree that it is 14 important if a school district in Mississippi 15 Delta were attempting or trying to achieve 16 diversity that it, as a practical matter, would 17 mean retaining as many white students as it 18 could, given the demographic reality of the 19 Mississippi Delta?</p> <p>20 A Could you restate that question?</p> <p>21 Q Sure.</p> <p>22 MR. AHMAD: Could you just clarify if</p>	<p style="text-align: right;">Page 93</p> <p>1 A How are you, there are several 2 different dimensions of diversity so which one 3 are you talking about?</p> <p>4 Q Racial diversity. Thank you.</p> <p>5 A Racial diversity, okay. So if you 6 didn't have white students, there are other 7 dimensions of racial diversity that could exist 8 within the Cleveland --</p> <p>9 Q What would those be?</p> <p>10 A If you had Hispanic students, if you 11 had Asian students, if you had Native American 12 students.</p> <p>13 Q I see, and I think you just told me 14 that you haven't reviewed the data to determine 15 whether there are sufficient numbers of Asian 16 students or Native American students to, in 17 effect, be statistically significant in a school 18 district like Cleveland School District.</p> <p>19 A No, I didn't say that. I said I 20 don't have the data of all the Mississippi Delta 21 school districts in front of me to answer that 22 question.</p>

Page 94

1 Q Okay. Now, in some of your research,
 2 you do from time to time -- Or let me put the
 3 question this way. You have researched the issue
 4 of white flight, have you not?

5 A Yes.

6 Q And in your research -- Or do you have
 7 an opinion, let me ask it this way. Do you have
 8 an opinion as to whether white flight is a valid
 9 concern for the Cleveland School District in an
 10 effort to retain racial diversity in the schools?

11 A Do I have an opinion on whether white
 12 flight is a concern? Is that what you're saying?

13 Q I think I might have said a legitimate
 14 concern.

15 A On the part of who?

16 Q Of the school board.

17 A That white flight is a legitimate
 18 concern. In other words, are you asking me if
 19 the school district wants to make sure they don't
 20 lose all the white students in the district?

21 Q Well, close I think. But if I told
 22 you the school district were concerned and was

Page 96

1 they would consider constituting white flight.
 2 Q Okay. What would you consider
 3 constituting white flight or do you have an
 4 opinion?

5 A Well, I do think this term of white
 6 flight is complicated and needs to be thought
 7 about because of the demographic changes of the
 8 country that are not related to school district
 9 policies which are changing the racial makeup of
 10 schools all over the country. So I think I just
 11 want to know more about what exactly they're
 12 concerned about happening and at what level --

13 Q I see.

14 A -- within this context because, again,
 15 all of this work on demographic changes in school
 16 enrollment and racial diversity are
 17 contextualized, measures of desegregation.

18 Q Now, in some of your research or in
 19 the scholarly articles, reports, you speak of a
 20 growing diversity in the public school district.

21 A In the public school --

22 Q Public schools generally in America,

Page 95

Page 97

1 seeking to retain its white students in an effort
 2 to retain racial diversity in the school
 3 district, would you say that is a valid concern
 4 for the school district?

5 A It depends on whether they're talking
 6 about degrees of white flight or any white
 7 flight, one students, two students.

8 Q So the issue of white flight can be a
 9 legitimate concern of a school board that's
 10 trying to retain diversity in its school
 11 district?

12 A I think I'd have to know more about
 13 how they're defining the term white flight and
 14 what they're concerned about.

15 Q Okay. But based on the different
 16 parameters, it could be a valid concern?

17 A What parameters?

18 Q Well, maybe you could tell me what you
 19 would need to know in order to determine whether
 20 white flight was a legitimate concern of the
 21 school board.

22 A I guess I need to know more about what

1 right?

2 A -- population, yes.

3 Q Is it a growing diversity or is it a
 4 diminishing, at the same time there's a
 5 diminishing white population in the public
 6 schools nationally also.

7 A Right, which is part of the diversity.

8 Q Okay, so those two things are
 9 happening at the same time, is that fair to say?

10 A Well, one is part of the other.

11 Q Okay, fair enough. Are school
 12 districts nationwide, that is generally
 13 throughout the United States of America, are some
 14 school districts concerned with achieving or
 15 retaining diversity of some kind racially?

16 A Are school districts concerned with?
 17 Some are, some aren't.

18 Q I see. So some school districts are
 19 looking at the demographic trends and they're
 20 saying, well, we need to enact some measures or
 21 adopt some policies that will retain diversity in
 22 the schools?

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 A Some. Sure, some districts are. 2 Q Would you encourage school districts 3 to do that? 4 A Yes. 5 Q Do you think diversity is a valid 6 objective of a public school district in America, 7 racial diversity? 8 A Yes. 9 Q So in some school districts, depending 10 on the particular demographics of the district, 11 those objectives may be different, right? 12 A Yes. 13 Q So some school districts may, for 14 example, achieve diversity if it has a growing 15 Hispanic population? 16 A Yes. 17 Q And it was traditionally an almost 18 all-white school district but it has a growing 19 Hispanic or a growing Asian population, et 20 cetera, is that true? 21 A If that's what's happening, the 22 district is becoming more diverse racially.</p>	<p style="text-align: right;">Page 100</p> <p>1 A Is that a question? 2 Q Yes. 3 A Oh. What's the question? 4 Q Well, could reasonable people disagree 5 on how to accomplish or how to go about 6 maintaining racial diversity in the Cleveland 7 school district, i.e., maintaining white 8 enrollment? 9 A Could you be specific about reasonable 10 people? 11 Q I'll just move on to another question. 12 Is a school district, in your opinion, that does 13 not have racial diversity somehow flawed? 14 A Is a school district that does not 15 have racial diversity -- 16 Q Let me ask it this way. Is a 17 particular school that does not have racial 18 diversity fundamentally flawed? 19 A Particular school. Depends on what 20 exactly you're talking about is the flaw, right, 21 in terms of student assignment, in terms of other 22 things. And it would also depend on the context,</p>
<p style="text-align: right;">Page 99</p> <p>1 Q I see. Would you say that overall the 2 Cleveland, Mississippi, School District is a 3 racially diverse school district? 4 A I would say in the context of 5 Mississippi Delta, from what I know, that it is 6 diverse. 7 Q In the context of the Cleveland School 8 District, do you believe that it is a valid 9 concern of the school board to retain white 10 students in an effort to maintain that diversity? 11 A I would say that if I were the 12 Cleveland School District that I would be doing 13 all that I could to create the best district for 14 all the students who live there, and that 15 retaining the white population would be achieved 16 through creating the best high school program and 17 middle school program for all students in the 18 District. 19 Q So reasonable people may disagree on 20 how that process should unfold in terms of 21 maintaining white students in order to maintain 22 diversity in the schools?</p>	<p style="text-align: right;">Page 101</p> <p>1 the district in which the school is located. 2 Q So a district, for example, in Utah 3 may be different from a district in Mississippi 4 Delta? 5 A In what way? 6 Q Well, in the sense that the population 7 of Utah, and I haven't looked at it but I'm 8 assuming it's high, 90 percent white in most 9 instances. Let's just assume it is. Would that 10 context be different than the context in 11 Mississippi Delta? 12 A The context between Utah and 13 Mississippi, is very different yes. 14 Q Demographically there's a big 15 difference, right? 16 A Yes. In terms of race specifically? 17 Q Yes. 18 A Other things as well. 19 Q Have you ever in your research or in 20 any of your scholarly work had an opportunity to 21 criticize certain desegregation tools or 22 policies?</p>

1 A To criticize certain desegregation
 2 tools or policies. Tools or policies, you mean
 3 like desegregation plans?

4 Q Yes, like busing or mandatory
 5 reassignment of students or other measures that
 6 were undertaken at various times, and here's
 7 where I'm getting at. Do you have an opinion of
 8 whether any of the desegregation policies of the
 9 United States have had the perverse effect of
 10 leading to less diversity in the public schools?

11 A Say that again please.

12 Q Okay. Do you have an opinion as to
 13 whether any desegregation policies of the United
 14 States have had the perverse effect of leading to
 15 less diversity in the public schools?

16 MR. AHMAD: I'm sorry, do you mean the
 17 United States government?

18 MR. HOOKS: Yes.

19 THE WITNESS: Have had the perverse
 20 effect.

21 MR. HOOKS: And by perverse effect I
 22 mean sort of an unintended consequence.

1 A School attendance and enrollment is
 2 decided at the district level for the most part.

3 Q All right, well, let's talk about at
 4 the district level. That's really what I meant.
 5 Should school districts that are not diverse seek
 6 to attract students of other races in an effort
 7 to achieve racial diversity?

8 A So are you asking if school districts
 9 should attract students from other districts?

10 Q Or just should attract students
 11 generally in an effort to achieve diversity.

12 A Well, the only way school districts
 13 can attract students is either when students move
 14 into the district or they have some kind of
 15 transfer program from another district, and those
 16 are state policies. Open enrollment laws are
 17 usually state policies that allow students to
 18 transfer from one district to the next.

19 A district only has jurisdiction over
 20 the students who live in the district in terms of
 21 student assignment, so I'm not really clear on
 22 your question.

1 THE WITNESS: Well, I will say that I
 2 have criticized people who put too much emphasis
 3 on that point that you just made, and I'll
 4 explain that. Because certain scholars, less
 5 scholars than politicians usually, blame
 6 desegregation plans for white flight.

7 However, if you look at urban school
 8 districts that have had massive white flight,
 9 many of them have no desegregation plan. So the
 10 causality between a desegregation plan and white
 11 flight has not been proven. Detroit's a good
 12 example. New York City's a good example.

13 BY MR. HOOKS:

14 Q Should schools, in your opinion, that
 15 are not racially diverse seek to attract students
 16 of other races in an effort to achieve diversity?

17 A Should schools?

18 Q Yes.

19 A Well, schools can't attract any
 20 students unless districts allow them to be choice
 21 plans or have choice policies or --

22 Q Okay, well let's talk about school --

1 Q Are you aware of any research or
 2 information about how a predominantly black
 3 school district can maintain diversity by keeping
 4 its white students?

5 A Am I aware -- Could you say that
 6 again?

7 Q I'm sorry?

8 A Could you repeat that?

9 Q Are you aware of any research or
 10 information about how a predominantly black
 11 school district can maintain diversity by keeping
 12 its white students?

13 A Of any research?

14 Q Or information.

15 A Information. Specifically on how a
 16 predominantly black district -- I'd have to think
 17 about that. I have a lot of thoughts about it
 18 but I'm not sure that I can cite specific -- I
 19 need to think about that.

20 Q Could you share with us your thoughts
 21 about it from your experience and research, et
 22 cetera?

1 A My thoughts are that a lot has to do
 2 with district leadership and the quality of the
 3 academic programs offered and that I've seen
 4 examples of predominantly black schools attract
 5 white students and be very successful at that
 6 because of leadership at the district and the
 7 school level.

8 Q So it's possible for a predominantly
 9 black school to attract white students to it?

10 A Under certain circumstances where that
 11 was the option for the high school students, the
 12 only option.

13 Q Have you studied the impact of
 14 consolidation in school districts with
 15 predominantly African American student
 16 enrollment?

17 A Have I studied the impact of --

18 Q Consolidation in school districts with
 19 predominantly African American student
 20 enrollment.

21 A The impact of consolidation. I know
 22 that there are data that have been presented in

1 in those districts.

2 Q I see. But does whether racial
 3 percentages of school districts are affected
 4 depend on whether consolidation happens
 5 voluntarily by a district or whether it is
 6 forced, ordered by a court?

7 A I think what matters is the leadership
 8 in the process of consolidation to create the
 9 best consolidated school, building resources of
 10 the best quality teachers and curriculum and
 11 programs and that is the major factor in
 12 predicting the success of consolidated schools.

13 Q Well, here's another way for me to ask
 14 the question I think. Are you aware of any
 15 research regarding whether there is more white
 16 flight resulting from forced consolidation plans
 17 as opposed to voluntary consolidation plans?

18 A I don't know about a body of research
 19 on, quote/unquote, "forced consolidation."

20 Q All right, let me ask you another
 21 question. In terms of looking at, bless you,
 22 school districts maintaining racial diversity,

1 this case on the correlation, demographic changes
 2 after consolidation going back historically.

3 I don't believe I've seen any study or
 4 conducted any study myself. I don't believe a
 5 study exists on causality between the demographic
 6 changes of those districts and consolidation.

7 Q What about forced consolidation as
 8 part of a desegregation plan ordered by courts?
 9 Have you familiarized yourself or done any
 10 research regarding forced consolidation? And by
 11 that I mean consolidation of schools that are not
 12 voluntarily undertaken by school districts.

13 A Could you repeat that question?

14 Q Sure. Are you aware or have you
 15 conducted any research regarding the impact of
 16 forced consolidation on racial diversity in
 17 school districts, period? Question mark, sorry.
 18 And you can answer that or I can ask it again.

19 A I mean there's a lot of desegregation
 20 plans where schools are consolidated so I'm just
 21 going through all the districts I've looked at
 22 which are many and there are consolidated schools

1 are you aware of any research indicating whether
 2 there is a minimum threshold percentage of white
 3 students in a school necessary to maintain that
 4 percentage of white students in the school?

5 A I'm aware of a very old body of
 6 literature that examined that prior to the change
 7 in demographics in this country and changing
 8 racial attitudes. The better research was
 9 actually conducted on housing and residential
 10 segregation around tipping points. That research
 11 is also old.

12 Q Okay. When you said you're aware of
 13 very old body of data, what is that body of data
 14 to which you're referring?

15 A There were some studies conducted
 16 mostly in the '70s, '80s around forced busing and
 17 tipping points in housing mostly.

18 Q Okay, and with regard to whether there
 19 was a threshold minimum percentage of white
 20 students necessary to maintain enrollment in a
 21 school, are you aware of whether that research
 22 indicated a certain percentage of white students?

<p style="text-align: right;">Page 110</p> <p>1 A I'm aware of a lot of inconsistency in 2 the findings in that research.</p> <p>3 Q Do you know who authored that research 4 or wrote that report?</p> <p>5 A I would have to look through. There 6 are several different authors.</p> <p>7 Q But as you sit here right now, you 8 don't know whether there is a specific percentage 9 that's borne out by the scholarly research?</p> <p>10 A My understanding is there is 11 disagreement on that point.</p> <p>12 Q Okay, what is the disagreement about?</p> <p>13 A What the tipping point is or was. It 14 would be was because it was a long time ago.</p> <p>15 Q What do you mean by tipping point?</p> <p>16 A That's a term that was used, 17 particularly by people who resisted 18 desegregation. It was used also in the housing 19 literature as I mentioned on residential, I think 20 it was more often used in that literature, on a 21 point at which white families would flee 22 neighborhoods that were changing.</p>	<p style="text-align: right;">Page 112</p> <p>1 demographic changes. So by stabilized, I mean I 2 don't exactly how stable you're talking.</p> <p>3 Q So you're talking about most school 4 districts in the United States having a decline 5 in white enrollment?</p> <p>6 A There is a decline in white children, 7 yes, most districts.</p> <p>8 Q But the decline in white enrollment in 9 school districts outpaces the decline in the 10 birth rate of white students, doesn't it?</p> <p>11 A Well, it lags behind it, right, 12 because kids are born, they have to grow.</p> <p>13 Q But more students are, on average, 14 leaving the public schools than the number would 15 reflect that the students are, the birth rate 16 number would be reflected. I mean, phrase that 17 again. The overall population of United States 18 is declining in terms of the number of white 19 people in it, correct?</p> <p>20 A Percentage, yes.</p> <p>21 Q Percentage of white people. But the 22 percentage of --</p>
<p style="text-align: right;">Page 111</p> <p>1 Q Okay. Are you aware of any research 2 that would identify a tipping point with respect 3 to percentage of white students in a school below 4 which the white students would begin a 5 precipitous decline in enrollment?</p> <p>6 A I'm aware of outdated research that 7 disagreed on what that point was.</p> <p>8 Q Do you know of any American school 9 district maintaining a stabilized population of 10 white students that has approximately 32 percent 11 or less white students?</p> <p>12 A I'm sure there is. I mean we're only 13 at 48 percent white students in the country 14 nationally.</p> <p>15 Q I see. Well, with respect to -- Let's 16 talk about the school level. Is it your belief 17 there are schools out there that have 32 percent 18 or fewer white students who are maintaining 19 stabilized white enrollment?</p> <p>20 A I don't think there are many schools 21 in this country maintaining stabilized enrollment 22 around diversity given the birth rates, the</p>	<p style="text-align: right;">Page 113</p> <p>1 A White and Hispanic.</p> <p>2 Q -- white students, white, non-Hispanic 3 students leaving the public schools is greater 4 than that number, correct?</p> <p>5 A Nationally?</p> <p>6 Q Yes. Or do you know? You may not 7 know.</p> <p>8 A I don't believe that is true. The 9 percentage of students enrolled in private 10 schools has not increased significantly so I 11 don't --</p> <p>12 Q In what time frame are you referring?</p> <p>13 A In what time frame am I referring? In 14 the last 20/30 years.</p> <p>15 Q Okay. So in the past 20 or 30 years, 16 the percentage of white students who attend --</p> <p>17 A We're talking about nationally, right?</p> <p>18 Q Nationally, right, who attend private 19 or would you say parochial schools also --</p> <p>20 A Private, yes, and parochial.</p> <p>21 Q Okay. Has not increased in your 22 opinion?</p>

1 A Not significantly.
 2 Q Not significantly. Have you studied
 3 the issues having to do with the desegregation of
 4 the Natchez, Mississippi, public schools?
 5 A Have I studied them?
 6 Q Yes.
 7 A Meaning?
 8 Q Well, do you know anything about what
 9 happened there in terms of desegregation?
 10 A I've seen it referenced in the
 11 document.
 12 Q All right. In terms of Hattiesburg,
 13 Mississippi, have you had an opportunity to
 14 review that case or that circumstance with that
 15 school district?
 16 A I've seen it referenced in the
 17 documents in whatever information there was.
 18 Q It's fair to say you don't offer --
 19 A I'm not an expert on Hattiesburg,
 20 Mississippi.
 21 Q Okay, or Natchez, Mississippi?
 22 A Or Natchez, Mississippi.

1 or policy values that you believe would be
 2 beneficial for the school district?
 3 THE WITNESS: I believe those two
 4 things overlap.
 5 MR. HOOKS: Okay. Do you believe they
 6 overlap completely or do you believe that they
 7 overlap --
 8 THE WITNESS: Partially.
 9 MR. HOOKS: Partially.
 10 THE WITNESS: In my expert opinion on
 11 school desegregation and how to do it well, I
 12 believe they overlap completely. And also 14th
 13 Amendment rights of the black students in this
 14 district as well as Title VI issues.
 15 BY MR. HOOKS:
 16 Q Now, with respect to your report, the
 17 part that deals with statistics, do you consider
 18 yourself to be a statistician?
 19 A Do I conduct statistical analyses on
 20 a regular basis? No.
 21 Q Is your research more quantitative or
 22 qualitative?

1 MR. HOOKS: Okay. I just, I have a
 2 few more questions and I'm kind of nearing the
 3 end of my questioning I believe. I know those
 4 are famous last words. So I know it's 12:30.
 5 MR. AHMAD: Right. Everybody okay to
 6 push through?
 7 MR. HOOKS: Do you want to press on?
 8 Is everybody fine with that? Again, I realize
 9 some people need to eat lunch. Is everybody
 10 fine?
 11 (No audible response)
 12 MR. AHMAD: Devin, have you had a
 13 break? Are you --
 14 (No audible response)
 15 MR. AHMAD: Yes. All right.
 16 MR. HOOKS: Doctor, a question I have
 17 for you also is whether in terms of looking at
 18 your report that you have provided in this case,
 19 do you regard all of the recommendations that you
 20 have made to be part of the District's
 21 desegregation obligations or are there some
 22 aspects of your report that reflect educational

1 A More qualitative.
 2 Q And just for people who may be reading
 3 this and might not remember that expression, what
 4 is the difference between quantitative and
 5 qualitative?
 6 A I actually teach a class on this.
 7 Quantitative analysis generally for the general
 8 public answers questions about what. Qualitative
 9 analysis answers questions about how and why,
 10 which is why I also conduct mixed methods
 11 research that includes both.
 12 Q I see. Now, with respect to the two
 13 indices that have been discussed in your report,
 14 there is the interracial exposure index and there
 15 is the index of dissimilarity, correct?
 16 A Correct.
 17 Q And my understanding of your report,
 18 and I'll refer you generally to where it's
 19 discussed here. If you look with me on Pages 7
 20 and 8 and 9 -- By the way, I have no objection to
 21 this being an exhibit but --
 22 MR. AHMAD: It's your record. If

<p>1 you'd like to mark it --</p> <p>2 MR. HOOKS: It's just kind of more</p> <p>3 paper than we --</p> <p>4 MR. AHMAD: Let's leave it out.</p> <p>5 MR. HOOKS: You know? Let's just</p> <p>6 leave it out. If you look with me at Pages 7, 8,</p> <p>7 maybe 9, you criticize Dr. Christine Rossell's</p> <p>8 report for not, or criticize Dr. Rossell</p> <p>9 generally for not focusing on the index of</p> <p>10 dissimilarity. Is that right?</p> <p>11 THE WITNESS: That's right.</p> <p>12 BY MR. HOOKS:</p> <p>13 Q I'm curious, did you read Dr.</p> <p>14 Rossell's various reports? I think there are six</p> <p>15 of them that were submitted in this case.</p> <p>16 A I have read two of her reports. Oh,</p> <p>17 three. There was a short one, three.</p> <p>18 Q All right. Do you know whether in</p> <p>19 those six reports Dr. Rossell actually --</p> <p>20 A I didn't read six reports.</p> <p>21 Q Okay. So do you know whether in one</p> <p>22 of those reports, whether or not Dr. Rossell</p>	<p>Page 118</p> <p>1 A No, as the main measure that she uses</p> <p>2 in her analysis.</p> <p>3 Q Okay. Well, then is it permissible</p> <p>4 for a social scientist, an academician, to employ</p> <p>5 both of those measures in making a determination</p> <p>6 about racial issues having to do with the</p> <p>7 Cleveland School District?</p> <p>8 A Well, employ is an interesting word.</p> <p>9 I think you should conduct the different measures</p> <p>10 and consider the context and the demographics of</p> <p>11 the District overall in deciding which one</p> <p>12 portrays patterns of segregation more accurately.</p> <p>13 Q And it's fair to say that if you look</p> <p>14 at either one of the indices without applying a</p> <p>15 certain degree of common sense, you can get some</p> <p>16 absurd results in looking at either one, right?</p> <p>17 A What do you mean by common sense?</p> <p>18 Q Well, what I mean is I guess the</p> <p>19 context of it. For example, I'll give an</p> <p>20 example, like on the dissimilarity index for</p> <p>21 example.</p> <p>22 Let's say that two high schools did</p>
<p>Page 119</p> <p>1 actually does use the index of dissimilarity and</p> <p>2 makes analyses and so forth with regard to it?</p> <p>3 A I'd have to look.</p> <p>4 Q All right. In Page 7 you say, "In</p> <p>5 addition to the issues raised above regarding the</p> <p>6 interracial exposure index, Rossell's analysis of</p> <p>7 the Cleveland data is missing an important</p> <p>8 segregation measure that is more appropriate</p> <p>9 given the context."</p> <p>10 If Dr. Rossell did, in fact, perform</p> <p>11 an analysis regarding the index of dissimilarity,</p> <p>12 would you be incorrect in your report on Page 7?</p> <p>13 A I think the point that we were, that</p> <p>14 I was making on Page 7 was her reliance on one</p> <p>15 measure versus the other.</p> <p>16 Q Okay, not that she didn't have that in</p> <p>17 her report but that she relied on the interracial</p> <p>18 exposure index more than the dissimilarity index?</p> <p>19 A Yes. The problem with, in my eyes,</p> <p>20 with her report is her reliance on the</p> <p>21 interracial exposure index.</p> <p>22 Q At all?</p>	<p>Page 120</p> <p>1 remain in the school district and you had two</p> <p>2 white students and it's all you had in the school</p> <p>3 district and one of the white students went to</p> <p>4 one of the high schools and the other white</p> <p>5 student went to the other. Well, you'd have</p> <p>6 perfection in the index of dissimilarity, right?</p> <p>7 A Under that hypothetical situation?</p> <p>8 Q Yes.</p> <p>9 A Right. But then I wouldn't be relying</p> <p>10 on it in that --</p> <p>11 Q I understand.</p> <p>12 A Right.</p> <p>13 Q Because you would say, well, wait a</p> <p>14 second. You know, I've got perfection on the</p> <p>15 dissimilarity index but I've also only got two</p> <p>16 students who are white in the school so I'm not</p> <p>17 likely to consider that school to be a racially</p> <p>18 diverse school.</p> <p>19 A I mean, you're --</p> <p>20 Q Or to have much diversity in it,</p> <p>21 right?</p> <p>22 A Right. I think your hypothetical, I</p>

<p style="text-align: right;">Page 122</p> <p>1 mean, I would have to know a lot more about what 2 else is happening in that district and the 3 overall demographic at that time because there 4 are definitely more than two white students. 5 Q I understand. I understand. And what 6 I was trying to get at is that what you're saying 7 is that with both indices that an overall 8 appreciation for the context in which the indices 9 are presented and discussed, et cetera, is 10 important. 11 A Yes. 12 Q Okay. And, for example, also in the 13 index of dissimilarity, if you had all students 14 of one race who attended a school, do you know 15 what the index of dissimilarity would hold? What 16 would it be? 17 A If you had all students of -- It would 18 depend on what the rest of the district looked 19 like. 20 Q Well, let's just say the district's 21 100 percent of one race. 22 A Right, well, then you wouldn't need to</p>	<p style="text-align: right;">Page 124</p> <p>1 put together the references and work on the 2 statistical measures. 3 Q And with regard to the statistical 4 measures, have you, before this case, prepared 5 any kind of research report or done any 6 scholarship on either of these two indices about 7 which we've been talking? 8 A Well, yes. The report you just 9 mentioned has desegregation measures, 10 quantitative measures, H indices, dissimilarity. 11 MR. AHMAD: For the record, we're 12 talking about her article "Divided We Fall." 13 MR. HOOKS: I see. Okay. 14 THE WITNESS: But those are really 15 complicated because they're interdistrict so you 16 need a H indices for that because you have to 17 compare how much segregation is within a district 18 and then outside a district. 19 MR. HOOKS: All right. Have you -- 20 THE WITNESS: There's a nice bar graph 21 in there in that report that shows the difference 22 on Long Island between within-district</p>
<p style="text-align: right;">Page 123</p> <p>1 run a dissimilarity index. 2 Q But if you did, what would it show? 3 A It would show that there was no 4 dissimilarity across the schools because the 5 students are all one race. 6 Q It would show dissimilarity? 7 A It would show there's no 8 dissimilarity. 9 Q No dissimilarity, correct. It would 10 show perfection, right? 11 A Well, I don't think, I'm not saying it 12 would show perfection. 13 Q Okay, but it would show the highest 14 possible measure, right? 15 A Yes. 16 Q I got you. With regard to your 17 report, did someone help you with your report? 18 A Yes. 19 Q Who helped you? 20 A Lauren Fox. 21 Q What did she do? 22 A She helped me find research reports,</p>	<p style="text-align: right;">Page 125</p> <p>1 segregation and across-district segregation. But 2 that's much more sophisticated than this. 3 BY MR. HOOKS: 4 Q All right. With respect to the 5 within-district analyses, have you prepared a 6 research report or scholarly article in which 7 you've used either of these indices? 8 A Well, yes. I mean, the Long Island 9 research talks about within-district segregation. 10 Q I see. On Page 22 of your report, I 11 want to direct your attention to -- Where is 12 this? 13 Okay, if you look with me on Page 22, 14 Doctor, the last paragraph before the heading 15 "The District's contradictions about racial 16 balance" and so on, you refer to the United 17 States Department of Justice's reply to the 18 Cleveland School District's response to the 19 proposed consolidation plan. Points out other 20 majority black school districts with one high 21 school do exist in Mississippi. 22 Do you know whether with respect to</p>

32 (Pages 122 to 125)

Page 126

1 any of the districts listed there that the,
 2 whether those districts were, do you know how
 3 they came about being consolidated or created?

4 A I'd have to look at the information.

5 Q Okay. In fact, you say, "Demographic
 6 data on these school districts going back to 1990
 7 demonstrates that none of these districts has
 8 experienced the massive white flight that Rossell
 9 predicts in her report on Cleveland." Did you
 10 review any data that went back past 1990?

11 A We do have some -- I'd have to look.

12 Q But you don't recall whether --

13 A I don't recall exactly whether it went
 14 back past '90. I'd have to look.

15 MR. HOOKS: All right. This would be
 16 a good time for a little break, about five
 17 minutes.

18 MR. AHMAD: Yes, okay.

19 MR. HOOKS: And then I'll come back
 20 and finish up.

21 MR. AHMAD: Sure.

22 (Whereupon, the above-entitled matter

Page 128

1 THE WITNESS: There's a few copy
 2 editing errors, like a few duplicate paragraphs
 3 due to lack of function of track changes at the
 4 end I think. And there's a few, I know,
 5 grammatical problems and phrases repeated that I
 6 thought were --

7 MR. AHMAD: Just a minute.

8 THE WITNESS: -- deleted with track
 9 change.

10 MR. AHMAD: Let me clarify. Just for
 11 the record, on Page 14 there's a copy/paste error
 12 that you might have seen.

13 THE WITNESS: Yes, that's a good
 14 example.

15 MR. HOOKS: But other than these
 16 typographical issues, you know of no errors in
 17 your report?

18 THE WITNESS: Not that I know of.

19 MR. HOOKS: Have you looked at or
 20 formed any opinions with regard to the issue of
 21 white flight under the Department of Justice
 22 plan?

Page 127

1 went off the record at 12:42 p.m. and resumed at
 2 12:51 p.m.)

3 MR. HOOKS: Okay, Doctor, as you sit
 4 here today, do you know of any errors that are
 5 contained in your report that we have not
 6 discussed?

7 THE WITNESS: That we have not
 8 discussed.

9 MR. AHMAD: Sorry, are folks still on
 10 the line?

11 MS. JACKS: I still am. I am. This
 12 is Jamie Jacks. I don't think Dr. Rossell has
 13 her phone on mute. Dr. Rossell, can you -- They
 14 can hear you.

15 DR. ROSSELL: Okay, let me put it on
 16 mute. Sorry.

17 MR. AHMAD: Okay, Counsel, could you
 18 re-ask that question, please?

19 MR. HOOKS: Sure. Other than some of
 20 the issues that we've discussed, are there any
 21 errors contained in your report that you're aware
 22 of?

Page 129

1 THE WITNESS: I'm sorry. Can you say
 2 that again?

3 MR. HOOKS: I don't know. I can't
 4 necessarily attribute that to Dr. --

5 MR. AHMAD: Yes, I know it's -- Can we
 6 ask folks to call back in? I don't know what
 7 else to do, other than if we --

8 MR. HOOKS: Could we mute that?
 9 (Off the record comment)

10 MR. HOOKS: Well, let me put the
 11 question this way. You have made some opinions
 12 in your report about white flight under the plan
 13 of the United States Department of Justice or the
 14 lack of white flight that you predict, correct?

15 THE WITNESS: So your question is do
 16 I mention white flight?

17 MR. HOOKS: Yes.

18 THE WITNESS: Yes.

19 BY MR. HOOKS:

20 Q Now, with respect to what you say
 21 about white flight in the Cleveland School
 22 District, what do you base your opinions on?

33 (Pages 126 to 129)

1 A You have a specific --
 2 Q Well, if you look with me at Page 26
 3 it says, "Cleveland context and issues of white
 4 flight." Now, you have prior to that had a
 5 discussion about changing racial attitudes in
 6 America, correct?

7 A Yes.

8 Q But in terms of your assessment about
 9 the potential for white flight under the plan of
 10 the Department of Justice, did you consult any
 11 specific data in making your determination?

12 A Did I -- Could you repeat that?

13 Q Sure. Did you consult any data in
 14 making your determinations about white flight
 15 under the plan presented by the Department of
 16 Justice?

17 A Well, I definitely reviewed, you know,
 18 the literature in the area and I had the data
 19 from the county and the focus groups in
 20 particular at that time in my head and where we
 21 cite them.

22 Q And based on that information, you

1 A I also, having grown up in the South,
 2 believe that Northerners are pretty quick to
 3 define white Southerners in a certain way that I
 4 think kind of relates to some of the stuff that's
 5 being argued here.

6 Q In what way?

7 A Kind of underestimating white
 8 families' changing racial attitudes and
 9 appreciation of diversity in preparing their
 10 children for the 21st century.

11 Q In terms of the folks that you talked
 12 to when you went down there on Saturday, this
 13 past Saturday, April 4th, did you talk to any
 14 white families or white students?

15 A No.

16 Q Okay. In terms of looking at the
 17 school district's plans, and I understand there
 18 is a Plan A and a Plan B, did you conduct any
 19 analysis of what you believe might be or what the
 20 school district believes might be white flight
 21 under either of those plans?

22 A Did I analyze what I think will happen

1 concluded that --

2 A From Mississippi Department of
 3 Education data.

4 Q I see.

5 A Or the census data.

6 Q And that constitutes the universe of
 7 information that you consulted in making your
 8 opinion on white flight?

9 A Well, I've done a lot of research on
 10 white parents and I see the changing racial
 11 attitudes and some of the things I've written
 12 really recently with Millennial parents, white
 13 parents, around issues of diversity suggest that
 14 the old way of framing white flight in the
 15 research literature, which is really old and
 16 problematic on several levels, is really
 17 outdated.

18 And I think it's kind of disrespectful
 19 to white families in Cleveland, Mississippi, to
 20 try to apply that analysis to the way they make
 21 sense of racial issues in the South.

22 Q Have you talked --

1 in the future?

2 Q Yes.

3 A I have no crystal ball so no, but I
 4 will say a lot of what will happen in the future
 5 in Cleveland has a lot to do with the leadership
 6 of the school district and its ability to create
 7 a really amazing middle and high school,
 8 consolidated.

9 Q Well, I understand. But if for
 10 whatever reason the Court were to, let's say,
 11 choose one of the two plans presented by the
 12 school district and let's just suppose it were
 13 Plan B, would Plan B result in racially diverse
 14 schools?

15 A Well, for all the reasons I laid out
 16 in the report, I'm very skeptical of that.

17 Q Okay, and is the main reason have to
 18 do with the aspect of choice involved, parental
 19 choice?

20 A Well, let's go to the part of my
 21 report where I talk about Plan B. That would be
 22 most helpful because --

<p style="text-align: right;">Page 134</p> <p>1 Q Okay. What page is that?</p> <p>2 A It's mostly on 24. Okay, so I raise</p> <p>3 several issues related to the feeder patterns,</p> <p>4 the STEM program, STAR program, a lot of the</p> <p>5 ambiguity in the proposed plan on how student</p> <p>6 assignment would happen and how first come, first</p> <p>7 served would be operationalized, so there's just</p> <p>8 a lot of huge question marks.</p> <p>9 And based on other research on</p> <p>10 tracking and school choice, I would be very</p> <p>11 skeptical of the success of this plan in</p> <p>12 dismantling de jure segregation in the school</p> <p>13 district.</p> <p>14 Q Well, if you look on certain of the</p> <p>15 documentation provided by the school district,</p> <p>16 the school district under Plan B does give some</p> <p>17 estimates of its percentages. Did you review any</p> <p>18 of those? If you want to see them in particular,</p> <p>19 I can show them to you.</p> <p>20 A Yes. I'm sure that they're trying to</p> <p>21 predict what would happen if they implemented</p> <p>22 Plan B, but they don't have a lot of specifics on</p>	<p style="text-align: right;">Page 136</p> <p>1 served, you know, the feeder patterns for these</p> <p>2 programs, many of which begin in elementary</p> <p>3 school, and how students would gain access to it,</p> <p>4 particularly the STEM program or the STAR program</p> <p>5 as they matriculate through the schools, how the</p> <p>6 schools, how any sort of choice plan would be</p> <p>7 communicated to the parents, what kind of</p> <p>8 enrollment process there would be, what kind of,</p> <p>9 I mean, there's just tons. We could go on and on</p> <p>10 and on. Transportation. None of that's in</p> <p>11 there.</p> <p>12 Q Okay. With respect to your earlier</p> <p>13 understanding of racial diversity, if the schools</p> <p>14 resulted under Plan B in a plus or minus 15</p> <p>15 percentage point deviation between black and</p> <p>16 white students, would the schools at least be</p> <p>17 racially diverse in your opinion?</p> <p>18 A If the district -- Say that again.</p> <p>19 Q Would the schools be racially diverse</p> <p>20 --</p> <p>21 A If?</p> <p>22 Q -- if they were within plus or minus</p>
<p style="text-align: right;">Page 135</p> <p>1 Plan B in terms of student access in the event --</p> <p>2 Q Well, but they do agree, though, that</p> <p>3 there will be a diversity goal set at 65 percent</p> <p>4 black and 35 percent non-black with a plus or</p> <p>5 minus 15 percent deviation, though, correct?</p> <p>6 A They cite that as a goal but they have</p> <p>7 very little specifics in terms of how they would</p> <p>8 accomplish that or implement that.</p> <p>9 Q Okay, but let's assume that they did</p> <p>10 find a way to accomplish that or implement that</p> <p>11 and the two schools were within 15 percentage</p> <p>12 points of their district-wide racial averages.</p> <p>13 Would they be desegregated at that point?</p> <p>14 A I would say if you study school</p> <p>15 desegregation the way I have and how it's been</p> <p>16 implemented in hundreds of districts across the</p> <p>17 country, you can't just assume that. You have to</p> <p>18 have more detail on that.</p> <p>19 Q What additional detail would you need?</p> <p>20 A Well, several of the things I point</p> <p>21 out in the report, that they are very ambiguous</p> <p>22 about student assignment and first come, first</p>	<p style="text-align: right;">Page 137</p> <p>1 15 percent deviation of the district-wide</p> <p>2 averages?</p> <p>3 A In both the high schools?</p> <p>4 Q Yes.</p> <p>5 A According to the guidelines, they</p> <p>6 would be closer than they are now.</p> <p>7 Q Well, would they be racially diverse</p> <p>8 though?</p> <p>9 A If both the high schools have those</p> <p>10 enrollments, yes.</p> <p>11 Q All right. Let me ask you another</p> <p>12 question. With respect to the size of the school</p> <p>13 or size of schools generally, are you aware of</p> <p>14 any desegregation obligation that specifically</p> <p>15 requires schools to configure themselves in a</p> <p>16 certain size?</p> <p>17 A Any school desegregation obligation</p> <p>18 that's in existence today?</p> <p>19 Q Yes.</p> <p>20 A And by obligation what do you mean</p> <p>21 exactly? Court order.</p> <p>22 Q Court order or from case law or from</p>

<p style="text-align: right;">Page 138</p> <p>1 something emanating from the federal constitution 2 in some way.</p> <p>3 A I'm not sure. I'd have to look at 4 that. I do know that the research is very robust 5 on school size and the changing nature of 6 secondary curriculum and the need for the course 7 offerings in this current era of high school and 8 middle school education. And I do know that 9 schools can be too small to provide that and I do 10 believe East Side High School is in that 11 category.</p> <p>12 Q Okay. Is Cleveland High School in 13 that category?</p> <p>14 A Cleveland High School is also in the 15 category. It's closer to the minimum of 600.</p> <p>16 Q Okay. Well, if enrollment were 17 adjusted as per Plan B, would the two high 18 schools get closer to that --</p> <p>19 A I believe that enrollment --</p> <p>20 Q -- number that was acceptable?</p> <p>21 A -- that's adjusted for Plan B puts 22 them both below the minimum which --</p>	<p style="text-align: right;">Page 140</p> <p>1 A I do believe there are desegregation 2 plans that took into account, I'd have to double- 3 check but I am pretty sure, the need to 4 consolidate, particularly when all black schools 5 were too small to be offering the kinds of 6 curriculum.</p> <p>7 Q Okay. In this particular school 8 district, are you aware of whether the 9 desegregation orders speak to the size, the 10 relative sizes of schools? In other words, do 11 they require the school district to configure the 12 schools by size?</p> <p>13 A No, but they require the District to 14 provide equal educational opportunities.</p> <p>15 Q To provide what?</p> <p>16 A Equal educational opportunities and 17 that's pretty clear from my research. It would 18 be difficult to do that with two small schools.</p> <p>19 Q I see. Now, in terms of your 20 analysis, you indicate and you talk in your 21 report about the burden of choice under the 22 District's plans, I believe Plan B in particular,</p>
<p style="text-align: right;">Page 139</p> <p>1 Q What would be the --</p> <p>2 A You only have 1,000 high school 3 students --</p> <p>4 Q I see.</p> <p>5 A -- who live in the District. So two 6 high schools means one or both of them will be 7 under the ideal.</p> <p>8 Q Okay. And the ideal is, in your 9 opinion --</p> <p>10 A It's not my opinion. I mean, it's 11 according to the research literature and huge 12 statistical analyses, very sophisticated, of 13 school size, course offerings, et cetera. The 14 range should be 600 to 1,200. So a consolidated 15 high school would be perfect in that regard.</p> <p>16 Q Okay. Now, I guess my final question 17 or series of questions is that I understand there 18 is a body of literature to which you're referring 19 that discusses school size. I understand that. 20 But is that a function of schools' desegregation 21 obligations to have a school that size that 22 you're aware of?</p>	<p style="text-align: right;">Page 141</p> <p>1 and my question to you is what you mean by that.</p> <p>2 A I mean by a rather robust body of 3 literature that puts the burden of desegregating 4 schools by a choice on families, individual 5 families and students.</p> <p>6 Q Okay. In this particular case, do you 7 believe that the Hayes Cooper and Bell choice 8 paradigms are unconstitutional or do you have an 9 opinion on that?</p> <p>10 A I didn't say that.</p> <p>11 Q Okay. Do you believe that if the 12 school were to adopt policies that in some 13 respect approximate the Hayes Cooper or Bell 14 assignment strategies that the school would be 15 constitutional?</p> <p>16 A I can't answer that question.</p> <p>17 Q Okay, you offer no opinion on that?</p> <p>18 A No, I have a lot of opinion on that, 19 but the way you're asking the question is really 20 a legal question. I --</p> <p>21 Q Okay. Well, that's fine. If you're 22 not going to offer an opinion, then that's fine</p>

Page 142

1 but, so I won't --

2 MR. AHMAD: You're asking her about
3 constitutionality. You're not asking her about
4 educational opportunities. If you'd like to
5 rephrase the question, that's fine.

6 MR. HOOKS: Okay. But my
7 understanding is that you're not going to provide
8 an opinion to the Court on whether if the
9 District were to adopt an assignment paradigm
10 mirrored on Hayes or Bells Cooper, whether that
11 is constitutional or not.

12 THE WITNESS: An assignment plan for
13 middle and high schools is very different than an
14 elementary school.

15 MR. HOOKS: Okay. Is there a way that
16 an assignment plan can be constructed in which
17 students attend two high schools in the Cleveland
18 School District that, in your opinion, would be
19 constitutional or do you offer an opinion on
20 that?

21 MR. AHMAD: Counsel, we just talked
22 about this point about she's not offering

Page 143

1 opinions about what's constitutional or not.

2 MR. HOOKS: Okay.

3 MR. AHMAD: That's our job here. If
4 you'd like to ask a question, you know, with
5 another word, then that'll be fine.

6 MR. HOOKS: Well, actually that was my
7 question and I have no further questions.

8 MR. AHMAD: All right. Thank you very
9 much.

10 MR. HOOKS: Thank you, Doctor.

11 THE WITNESS: Yes, thank you.

12 (Whereupon, the above-entitled matter
13 went off the record at 1:09 p.m., signature
14 having not been waived.)

15

16

17

18

19

20

21

22

37 (Pages 142 to 143)